

## FGC Excerpts

### §8388. Angel sharks.

(a) No female angel shark measuring less than 42 inches in total length or 15¼ inches in alternate length and no male angel shark measuring less than 40 inches in total length or 14½ inches in alternate length may be possessed, sold, or purchased, except that 10 percent of the angel sharks in any load may measure not more than ½ inch less than the minimum size specified herein.

(b) Angel shark total length shall be measured from the anterior end of the head to the tip of the tail while the fish is lying in a position of natural repose. When measuring total length, or alternate length, the tip of the tail may be laid flat against the surface of the measuring device. Angel shark alternate length shall be measured from the point where the leading edge of the first dorsal fin meets the back to the tip of the tail. Angel sharks may be constrained from lateral movement during measurement by restraining devices approved by the department.

(c) Angel sharks taken in gill or trammel nets shall be landed (brought ashore) with at least one intact pelvic fin and the tail fin attached.

(d) Angel sharks taken in gill or trammel nets shall not be transferred to or from another vessel, except that angel sharks may be transferred to or from vessels with a department observer on board. An observer shall observe and make a written record of that transfer.

### §8601. What constitutes net or set line.

Any net or line used to take fish that is anchored to the bottom on each end and is not free to drift with the tide or current is a set net or set line. Any net so placed that it will catch or impound fish within a bight, bay, or estuary, or against the shore upon the receding of the tide is a set net. Fyke nets, shrimp nets, or crab nets are not set nets.

### §8601.5. Marking set nets and set lines; Recovery of set nets.

(a) Set nets and set lines shall be marked at both ends with buoys displaying above their waterlines, in numerals at least 2 inches high, the fisherman's identification number.

(b) Each piece or panel of a set net shall be marked along the corkline of the net, in a manner determined by the department to adequately identify the net, with the fisherman's identification number. The distance between the markings shall not exceed 45 fathoms. If the lost or abandoned net is recovered by the department or persons designated by the department, the commission may require the owner of the lost or abandoned net to pay for all recovery costs. The commission may revoke the owner's set net permit issued pursuant to Section 8681 for failure to comply with this subdivision.

(c) If a person is unable to recover a set net or portion of a set net, the person shall contact one of the department offices located in the City of Belmont, Monterey, Los Alamitos, or San Diego, not later than 72 hours after returning to port following the loss and shall report all of the following information:

- (1) The date and time when the set net was lost.
- (2) The location, including depth, where the net was lost.
- (3) A description of the lost net, including the mesh size, length, height, and target species, and whether the anchors remain attached to the net.
- (4) The name and fisherman's identification number of the person owning the net.
- (5) The name and fisherman's number of the person fishing with the net, if different from paragraph (4).
- (6) The name and California Fish and Game number of the vessel from which the lost net was being fished.

### §8601.6. Required breaking strength of footrope.

(a) The footrope (leadline) of any set net shall have a breaking strength of at least 50 pounds less than the combined breaking strength of the headrope and corkline.

### §8602. Manner of determining length of mesh.

The length of the meshes of any net shall be determined by taking at least four meshes and measuring them inside the knots or, in the case of knotless nets, inside the points at which the meshes are joined while they are simultaneously drawn closely together.

### §8603. Restrictions on use of net or other appliance in taking fish.

It is unlawful to use or operate or assist in using or operating any net, trap, line, spear, or appliance, other than in connection with angling, in taking fish, except as provided in this chapter or Chapter 4 of this part.

### §8604. Illegal disturbance or injury to net or trap; Exception.

It is unlawful willfully to disturb or injure any net, trap, or other apparatus to take fish which is being legally used in the waters of this state.

This section does not apply to employees of the department while they are engaged in the performance of their official duties.

### §8607. Possession or operation of net, trap or line, subject to federal groundfish regulations.

It is unlawful for any person possessing or operating any type of net, trap, or line that is subject to federal groundfish regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C., Sec 1801 et seq.) to possess or land any load of fish in violation of those federal groundfish regulations.

### §8608. Authority to permit or restrict use of nets within specified distances from pier, jetty, or dock.

Notwithstanding Sections 8660, 8665, 8724, and 8780, the commission may, after a public hearing, when it determines that it is in the best interests of the state's marine resources and fisheries, adopt regulations, authorizing the use of nets not less than 75 feet from any private pier, wharf, jetty, breakwater, or dock, and restricting the use of the nets within 750 feet of any public pier. However, nothing in this section authorizes the commission to adopt regulations which would extend beyond the maximum of 750 feet the area in which the use of nets is prohibited, as specified in Sections 8660, 8665, 8724, and 8780, or which would prohibit the use of any nets within 75 feet of any private pier, wharf, jetty, breakwater, or dock if that use of the net is permitted by law.

### §8610.1. Marine Resources Protection Act of 1990.

The Marine Resources Protection Act of 1990 (Art. XB, Cal. Const.) was adopted as an initiative constitutional amendment at the November 6, 1990, general election. This article codifies and implements that initiative constitutional amendment.

### §8610.2. Definitions and applicable references.

(a) "District" for the purposes of this article and of Article XB of the California Constitution means a fish and game district as defined in this Code by statute on January 1, 1990.

(b) Except as specifically provided in this article, all references to sections, articles, chapters, parts, and divisions of this code are defined as those statutes in effect on January 1, 1990.

(c) "Ocean waters" means the waters of the Pacific Ocean regulated by the state.

(d) "Zone" means the Marine Resources Protection Zone established pursuant to this article. The zone consists of the following:

(1) In waters less than 70 fathoms or within one mile, whichever is less, around the Channel Islands, consisting of the Islands of San Miguel, Santa Rosa, Santa Cruz, Anacapa, San Nicolas, Santa Barbara, Santa Catalina, and San Clemente.

(2) The area within three nautical miles offshore of the mainland coast, and the area within three nautical miles off any manmade breakwater, between a line extending due west from Point Arguello and a line extending due west from Mexican border.

(3) In waters less than 35 fathoms between a line running 180 degrees

true from Point Fermin and a line running 270 degrees true from the south jetty of Newport Harbor.

**§8610.3. Use of gill nets or trammel nets in zone before specified date.**

(a) From January 1, 1991, to December 31, 1993, inclusive, gill nets or trammel nets may only be used in the zone pursuant to a nontransferable permit issued by the Department of Fish and Game pursuant to Section 8610.5.

(b) On and after January 1, 1994, gill nets and trammel nets shall not be used in the zone.

**§8610.4. Restrictions of use of gill nets or trammel nets as to certain fish and locations.**

(a) Notwithstanding any other provision of law, gill nets and trammel nets may not be used to take any species of rockfish.

(b) In ocean waters north of Point Arguello on and after November 7, 1990, the use of gill nets and trammel nets shall be regulated by the provisions of Article 4 (commencing with Section 8660), Article 5 (commencing with Section 8680) and Article 6 (commencing with Section 8720) of Chapter 3 of Part 3 of Division 6, or any regulation or order issued pursuant to these articles, in effect on January 1, 1990, except that as to Section 8680, 8681, 8681.7, and 8682, and subdivisions (a) through (f), inclusive of Section 8681.5, or any regulation or order issued pursuant to these sections, the provisions in effect on January 1, 1989, shall control where not in conflict with other provisions of this article, and shall be applicable to all ocean waters. Notwithstanding the provisions of this section, the Legislature shall not be precluded from imposing more restrictions on the use and/or possession of gill nets or trammel nets. The director shall not authorize the use of gill nets or trammel nets in any area where the use is not permitted even if the director makes specified findings.

**§8610.11. Violation of article.**

It is unlawful for any person to take, possess, receive, transport, purchase, sell, barter, or process any fish obtained in violation of this article.

**§8625. Use of gill nets and trammel nets to take California halibut.**

(a) Except as otherwise provided in this code, set gill nets and trammel nets with mesh size of not less than 8½ inches may be used to take California halibut.

(b) Except as provided in subdivision (c), not more than 1,500 fathoms (9,000 feet) of gill net or trammel net shall be fished in combination each day for California halibut from any vessel in ocean waters.

(c) Not more than 1,000 fathoms (6,000 feet) of gill net or trammel net shall be fished in combination each day for California halibut from any vessel in ocean waters between a line extending due west magnetic from Point Arguello in Santa Barbara County and a line extending 172° magnetic from Rincon Point in Santa Barbara County to San Pedro Point at the east end of Santa Cruz Island in Santa Barbara County, then extending southwesterly 188° magnetic from San Pedro Point on Santa Cruz Island.

(d) This section shall become operative on August 15, 1989.

**§8630. Nets unlawfully used as public nuisance, seizure, forfeiture; Procedure, etc.**

Any net or trap used for taking fish in violation of the provisions of this code is a public nuisance. It is the duty of every person authorized to make an arrest for such a violation to seize and keep the net and report the seizure to the department.

The department may commence proceedings in the superior court of the county or city and county in which the seizure is made by petitioning the court for a judgement forfeiting the net. Upon the filing of the petition, the clerk of the court shall fix a time for a hearing and cause notices to be posted for 14 days in at least three public places in the place where the court is held, setting forth the substance of the petition and the time and place fixed for its hearing. At that time, the court shall hear and determine

the proceeding and, upon proof that the net was used in violation of this code shall order it forfeited. Any net so forfeited shall be sold or destroyed by the department. The proceeds from all those sales shall be paid into the Fish and Game Preservation Fund.

**§8660. Districts 19 and 19A; Use near pier or breakwater.**

Nothing in this chapter authorizing the use of nets in District 19 or 19A shall authorize the use of any net within 750 feet of any pier, wharf, jetty, or breakwater, except that dip nets may be used subject to the provisions of Section 8870.

**§8661. Districts 19A and 20; Right of net carrying vessels to cross to open water or to enter harbor in emergency.**

Vessels may carry nets across Districts 19A and 20 to open water outside those districts. Vessels carrying nets may enter harbors in Districts 19A and 20 only in cases of distress or emergency.

**§8663. Possession of gill net, trammel net or fyke net unlawful as specified.**

No gill net, trammel net, or fyke net may be possessed on any boat in the waters of any district lying upstream from a line drawn between Antioch Point and the westerly tip of Kimball Island and from a line drawn from Point Sacramento across the stream and touching the most easterly point on Montezuma Island.

**§8664. Nets found in specified rivers; Evidence of unlawful use; Exceptions.**

Except in Districts 6 and 7, any net found in, or within 500 feet of the Klamath, Smith, Eel, Mad, Van Dusen, or Mattole Rivers, or their tributaries, is prima facie evidence that the owner or person in possession of the nets is or has been using it unlawfully.

The provisions of this section do not apply to trawl or drag nets being transported.

**§8664.2. Use of gill and trammel nets offshore of San Nicolas Island; Taking of sea otter within sea otter management zone.**

(a) Notwithstanding Sections 8693 and 8724, gill nets and trammel nets shall not be used offshore of San Nicolas Island in Ventura County in waters 20 fathoms or less in depth at mean lower low water.

(b) No person, except state, local, or federal employees in the performance of their official duties, shall discharge any firearm within the sea otter translocation zone surrounding San Nicolas Island.

(c) For purposes of this section "sea otter translocation zone" includes San Nicolas Island, the nearby islet of Begg Rock, and surrounding waters within the following coordinates:

(North Latitude/West Longitude)

33°27.8'/119°34.3'	33°20.5'/119°15.5'
33°13.5'/119°11.8'	33°06.5'/119°15.3'
33°02.8'/119°26.8'	33°08.8'/119°46.3'
33°17.2'/119°56.9'	33°30.9'/119°54.2'

(d) The taking of a sea otter that is incidental to, and not for the purpose of, the carrying out of an otherwise lawful activity within the sea otter management zone described in subdivision (c), is not a violation of the California Endangered Species Act, Chapter 1.5 (commencing with Section 2050) of Division 3, or Section 4700.

(e) For purposes of this section, "sea otter management zone" includes waters, islands, islets, and land areas seaward of mean high tide subject to the jurisdiction of the United States, including state tidelands, located south of Point Conception (34°26.9' N. Latitude), excepting therefrom any area within the sea otter translocation zone described in subdivision (c).

(f) This section shall become operative only upon the relocation and release of sea otters to San Nicolas Island. This section shall become

inoperative if the sea otter translocation experiment is declared a failure pursuant to the provisions of Public Law 99-625.

**§8664.5. Use of gill or trammel nets in specified districts; Public hearing following determination of adverse impact from use of nets.**

Except as provided in Section 8664.5(f), at no time may gill or trammel nets be used in ocean waters which are 60 fathoms or less in depth at mean lower low water, in the area between a line extending 361° true (245° magnetic) from the most westerly point of the west point of the Point Reyes headlands in Marin County to a line extending due west (270° true; 256° magnetic) from Point Arguello, Santa Barbara County (Title 14, Section 104.1, CCR).

(a) Notwithstanding Sections 8693 and 8724, gill nets and trammel nets shall not be used in those portions of District 17 between a line extending 220° magnetic from the mouth of Waddell Creek in Santa Cruz County and a line extending 252° magnetic from Yankee Point, Carmel Highlands, in Monterey County in waters 30 fathoms or less in depth at mean lower low water.

(b) Notwithstanding Sections 8693 and 8724, gill nets and trammel nets shall not be used in that portion of District 18 north of a line extending due west from Point Sal in Santa Barbara County in waters 30 fathoms or less in depth at mean lower low water.

(c) Notwithstanding Sections 8693 and 8724, any person using gill or trammel nets in those portions of Districts 17 and 18 from a line extending 220° magnetic from the mouth of Waddell Creek in Santa Cruz County to a line extending due west from Point Sal in Santa Barbara County in waters between 30 fathoms and 40 fathoms in depth at mean lower low water shall comply with all of the following requirements in order to ensure adequate monitoring of fishing effort to protect marine mammals:

(1) Prior to the use, the person shall notify the department that gill nets or trammel nets will be set in the area.

(2) The person shall give adequate notification, as determined by the department, to the department at its office in Monterey or Morro Bay at least 24 hours prior to each fishing trip to ensure full compliance and cooperation with the monitoring program. The department may require that an authorized monitor be on board the vessel. The department shall determine whether on board, at sea, or shoreside monitoring is appropriate. If the authorized monitor is not on board the fishing vessel, the fishing vessel operator and the authorized monitor shall make every effort to remain in radio contact if the radio equipment is made available to the monitor.

(3) To ensure the effectiveness of the monitoring program, gill nets and trammel nets may be set or pulled only between one-half hour after sunrise and one-half hour before sunset.

(4) A permit may be revoked and canceled pursuant to Section 8681 for failure to comply with the department's notification and monitoring requirements.

(d) If the director determines that the use of gill or trammel nets is having an adverse impact on any population of any species of seabird, marine mammal, or fish, the director shall issue an order prohibiting or restricting the use, method of use, size, or materials used in the construction of either or both types of those nets in all or any part of District 10 or 17, or in all or any part of District 18 north of a line extending due west from Point Conception in Santa Barbara County for a specified period. The order shall take effect no later than 48 hours after its issuance. The director shall hold a properly noticed public hearing in a place convenient to the affected area within one week of the effective date of the order to describe the action taken and shall take testimony as to the effect of the order and determine whether any modification of the order is necessary.

(e) For purposes of this section, "adverse impact" means either of the following:

(1) The danger of irreparable injury to, or mortality in, any population of any species of seabird, marine mammal, or fish which is occurring at a rate that threatens the viability of the population as a direct result of the use of gill nets or trammel nets.

(2) The impairment of the recovery of a species listed as an endangered

species or threatened species pursuant to the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.) or the California Endangered Species Act [Chapter 1.5 (commencing with Section 2050) of Division 3] or a species of seabird, marine mammal, or fish designated as fully protected under this code, as a direct result of the use of gill nets or trammel nets.

(f) This section does not apply to any gill net with meshes 3½ inches or less in length in any portion of District 18 between Yankee Point in Monterey County and Point Sal in Santa Barbara County.

(g) The Legislature finds and declares that this section, as amended by Chapter 884 of the Statutes of 1990, and as amended by the act that amended this section during the 1992 portion of the 1991-92 Regular Session, is more restrictive on the use and possession of gill nets and trammel nets than the version of this section in effect on January 1, 1990, and therefore complies with Section 8610.4, and Section 4 of Article XB of the California Constitution.

**§8664.7. Effective length of prohibition order.**

The initial period of effectiveness of an order issued pursuant to subdivision (c) of Section 8664.5 shall not exceed 120 days. After a further public hearing, the director may, on the basis of a report prepared by the department on the condition of the local population of any species of seabird, marine mammal, or fish, extend the order for a further specified period or reissue the order for a further specified period.

**§8664.8. Set or drift gill or trammel nets prohibited.**

(a) Notwithstanding Sections 8685, 8687, 8696, and 8724, and except as provided in subdivisions (c) and (d), set or drift gill or trammel nets shall not be used in ocean waters between a line extending 245° magnetic from the most westerly point of the west point of the Point Reyes headlands in Marin County and the westerly extension of the California-Oregon boundary.

(b) (1) Notwithstanding Sections 8664.5, 8687, 8696, and 8724, set or drift gill or trammel nets shall not be used in waters which are 40 fathoms or less in depth at mean lower low water between a line extending 245° magnetic from the most westerly point of the west point of the Point Reyes headlands in Marin County and a line extending 225° magnetic from Pillar Point at Half Moon Bay in San Mateo County.

(2) Notwithstanding Sections 8664.5, 8687, 8696, and 8724, set or drift gill or trammel nets shall not be used in ocean waters which are 60 fathoms or less in depth at mean lower low water between a line extending 225° magnetic from Pillar Point at Half Moon Bay in San Mateo County to a line extending 220° magnetic from the mouth of Waddell Creek in Santa Cruz County.

(c) Subdivisions (a) and (b) do not apply to the use of drift gill nets operated under a permit issued by the department in that part of Arcata Bay in Humboldt County lying northeast of the Samoa Bridge during the period from April 1 to September 30, inclusive. The department may issue not more than six permits pursuant to this subdivision. Each permit shall specify the amount and type of gear which may be used under the permit.

(d) Subdivisions (a) and (b) do not apply to the use of set gill nets used pursuant to Article 15 (commencing with Section 8550) of Chapter 2 of Part 3 of Division 6 or regulations adopted under that article or to the use of drift gill nets with a mesh size of 14 inches or more.

(e) (1) Notwithstanding subdivision (b) and Sections 8687, 8696, and 8724, gill or trammel nets shall not be used within three nautical miles of the Farallon Islands in San Francisco County, and within three nautical miles of Noonday Rock buoy located approximately 3½ miles 276° magnetic from North Farallon Island.

(2) If the director determines that the use of set or drift gill or trammel nets is having an adverse impact on any population of any species of sea bird, marine mammal, or fish, the director shall issue an order prohibiting the use of those nets between three nautical miles and five nautical miles of the Farallon Islands and Noonday Rock Buoy or any portion of that area. The order shall take effect no later than 48 hours after its issuance. The director shall hold a properly noticed public hearing in a place

convenient to the affected area within one week of the effective date of the order to describe the action taken and shall take testimony as to the effect of the order and determine whether any modification of the order is necessary. Gill and trammel nets used to take fish in District 10 shall be marked at each end with a buoy displaying above its waterline in Arabic numerals at least two inches high, the fisherman's identification number issued by the department under Section 7852. Nets shall be marked at both ends and at least every 250 fathoms between the ends with flags of the same color and at least 144 square inches in size, acceptable to the department.

(f) The Legislature finds and declares that this section, as amended by Chapter 1633 of the Statutes of 1990, is more restrictive on the use and possession of gill nets and trammel nets than the version of this section in effect on January 1, 1990, and therefore complies with Section 8610.4, and Section 4 of Article XB of the California Constitution.

**§8664.13. Construction of set gill and trammel nets with breakaway and anchoring features.**

During the period from December 15 to May 15, inclusive, set gill nets and trammel nets with mesh eight inches or greater and less than 12 inches used in ocean waters 25 fathoms or less in depth between a line extending due west magnetic from Point Conception and the westerly extension of the boundary line between the Republic of Mexico and the United States shall be constructed with breakaway and anchoring features, as follows:

(a) The corkline and any other line which may extend across the top of the net shall have a combined breaking strength not to exceed 2,400 pounds.

(b) A breakaway device shall be used along the corkline (headrope) and along the leadline (footrope) at regular intervals of 45 fathoms or less.

(c) Each breakaway or disconnect device shall be constructed as described in either of the following:

(1) Of nylon twine, or an equivalent material, with a breaking strength of 200 pounds or less, using not more than eight complete circular (360) wraps of the twine to connect the ends of each corkline and leadline interval, which allows each breakaway or disconnect device a breaking strength of not more than 1,600 pounds.

(2) As the department may otherwise authorize.

(d) Anchors used to secure each end of the net to the ocean bottom shall weigh not less than 35 pounds each, and shall be attached to the net by a ground rope and bridle with combined length of not less than 15 fathoms from the anchor to the net.

**§8665. Nets unlawful within specified distance from pier or dock; Exceptions.**

In District 118.5, nets may not be used within 750 feet of any pier or dock, except for bait nets described in Section 8780 used to capture live bait and lobster traps authorized for use pursuant to Section 9010.

**§8681. Required permit.**

(a) Gill nets or trammel nets shall not be used for commercial purposes except under a revocable nontransferable permit issued by the department. Each permittee shall keep an accurate record of his fishing operations in a logbook furnished by the department. A permit may be revoked and canceled by the commission when so recommended by the department upon a conviction for a violation of this article, or regulation authorized by this article, by the permittee, his or her agents, servants, employees, or those acting under his or her direction and control. A permit may be revoked and canceled for a period not to exceed one year from the date of revocation.

(b) In accordance with Section 4 of Article XB of the California Constitution, this section contains the provisions in effect on January 1, 1989.

**§8681.5. Ban on new gill or trammel net permits; Exception; Transfer of permits.**

(a) The department shall issue no new gill net or trammel net permits under Section 8681. However, the department may renew an existing,

valid permit issued under Section 8681, under regulations adopted pursuant to Section 8682 and upon payment of the fee prescribed under Section 8683.

(b) Notwithstanding subdivision (a) or Section 8681, any person who has an existing, valid permit issued pursuant to Section 8681, and presents to the department satisfactory evidence that he or she has taken and landed fish for commercial purposes in at least 15 of the preceding 20 years, may transfer that permit to any person otherwise qualified under the regulations adopted pursuant to Section 8682 upon payment of the fee prescribed under Section 8683.

(c) The fee collected by the department for the transfer of a gill and trammel net permit issued pursuant to Section 8682 shall not exceed the cost of the permit fee as prescribed under Section 8683.

(d) For purposes of subdivision (b), the death of the holder of the permit is a disability which authorizes transfer of the permit by that person's estate to a qualified fisherman pursuant to Section 8682. For purposes of a transfer under this subdivision, the estate shall renew the permit, as specified in Section 8681, if the permittee did not renew the permit before his or her death. The application for transfer by that person's estate shall be received by the department, including the name, address, and telephone number of the qualified fisherman to whom the permit will be transferred, within one year of the date of death of the permit holder. If no transfer is initiated within one year of the date of death of the permit holder, the permit shall revert to the department for disposition pursuant to Section 8681.

(e) Any active participant who becomes disabled in such a manner that he or she can no longer earn a livelihood from commercial fishing may transfer his or her permit as provided under this section.

(f) The Legislature finds and declares that this section, as amended by Chapter 94 of the Statutes of 1992, is more restrictive on the use and possession of gill nets and trammel nets than the version of this section in effect on January 1, 1989, and therefore complies with Section 8610.4, and Section 4 of Article XB of the California Constitution.

**§8681.7. Appeal from denial of permit renewal.**

(a) Notwithstanding Section 8681.5, any person who possessed a valid permit issued pursuant to Section 8681 and who was denied renewal of that permit, may appeal to the commission where evidence can be presented that illness or the loss of a vessel resulted in the person not meeting the qualifications for renewal or reissuance of that permit.

(b) The appeal shall be filed with the Commission within 60 days of a denial of the renewal of a permit.

(c) If the commission determines that a permit is to be issued to a prior permittee under this section, a permit shall be made available to that person upon payment of required fees.

(d) In accordance with Section 4 of Article XB of the California Constitution, this section contains the provisions in effect on January 1, 1989.

**§8682. Regulations for issuance of permits; Advisory committee.**

(a) The Commission shall establish regulations for the issuance of gill net and trammel net permits as necessary to establish an orderly gill net and trammel net fishery. In promulgating regulations, the commission shall consider recommendations of the gill net and trammel net advisory committee created pursuant to subdivision (b). The regulations shall include, but are not limited to, a requirement that persons being granted a permit have had previous experience as a crewmember of a vessel using gill nets or trammel nets or have successfully passed a proficiency test administered by the department, under such regulations as the commission shall prescribe.

(b) The director shall establish an advisory committee, consisting of fishermen experienced in the use of gill nets and trammel nets, to advise the department in developing regulations to be proposed to the commission governing the use of gill nets and trammel nets.

(c) In accordance with Section 4 of Article XB of the California Constitution, this section contains the provisions in effect on January 1, 1989.

**§8683. Permit Fee.**

The fee for a permit issued pursuant to Section 8681 is three hundred thirty dollars (\$330).

**§8684. Swordfish and marlin catch.**

No incidental catch of swordfish or marlin is authorized by this article. Any swordfish or marlin caught incidentally by a gill or trammel net permittee operating under a permit issued pursuant to Section 8681 shall be delivered to the department.

A permit issued pursuant to Section 8681 shall be revoked for conviction of a violation of this section.

**§8685. Prohibited possession in Districts 1, 2, and 3.**

In Districts 1, 2, and 3, gill nets may not be possessed on any boat.

**§8685.5. Unlawful uses; Species.**

Notwithstanding any other provision of law, gill nets may not be used to take salmon, steelhead or striped bass.

**§8685.6. Sale of fish taken unlawfully.**

It is unlawful to sell or possess for sale any salmon, steelhead, or striped bass which were taken in California waters by the use of a gill net.

**§8685.7. Purchase of fish taken by use of gill net.**

It is unlawful for any person to knowingly purchase any salmon, steelhead, or striped bass which were taken in California waters by the use of a gill net.

For the purpose of this section, "person" includes a broker who purchases salmon, steelhead, or striped bass which were unlawfully taken by gill net for the purpose of reselling those fish.

**§8687. Possession and use in Districts 6, 7, 8, 9, and 10.**

Except as otherwise provided in this code, drift gill nets may be used in Districts 6, 7, 8, 9, and 10.

**§8688. Use of gill nets in Districts 11, 12, and 13.**

In Districts 11, 12, and 13, gill nets may be used to take only herring, subject to Article 15 (commencing with Section 8550) of Chapter 2. No gill net may be possessed on any boat in Districts 11, 12, and 13, except by persons possessing a valid permit aboard boats specifically authorized to take herring during the open seasons established by the commission.

**§8691. Use of set gill nets and trammel nets of specified mesh to take rockfish or lingcod in specified waters.**

Set gill nets and trammel nets with mesh smaller than 4<sup>1</sup>/<sub>8</sub> inches shall not be used or possessed on any boat taking rockfish or lingcod in ocean waters between a line extending 245° magnetic from the most westerly point of the Point Reyes headlands and a line extending 250° magnetic from the Pigeon Point Lighthouse.

**§8692. Use of gill nets to take rockfish or lingcod in specified waters.**

Notwithstanding Section 8693, it is unlawful to use gill nets to take rockfish or lingcod in the following waters:

(a) Between a line running 240° magnetic from Santa Cruz Point and a line running 240° magnetic from Point Sur lighthouse in Monterey County in waters 100 fathoms or less in depth.

(b) Between a line running 240° magnetic from Point Sur lighthouse and a line running 240° magnetic from Pfeiffer Point in Monterey County in waters 75 fathoms or less in depth.

**§8692.5. Net limits.**

(a) Not more than 1,250 fathoms (7,500 feet) of gill net or trammel net shall be fished in combination each day from any vessel for lingcod in ocean waters.

(b) The Legislature finds and declares that this section, as amended by this act at the 1991-92 Regular Session of the Legislature, is more

restrictive on the use and possession of gill nets and trammel nets than the provisions in effect on January 1, 1990, and therefore complies with Section 8610.4, and Section 4 of Article XB of the California Constitution.

**§8693. Use in Districts 17, 18, 19, and 20A.**

(a) Except as otherwise provided in this code, drift gill nets and set gill nets may be used in Districts 17, 18, 19, and 20A, except for the taking of salmon.

(b) Rockfish and lingcod may be taken with drift gill nets and set gill nets in Districts 17, 18, 19, and 20A, subject to the following restrictions: (1) Rockfish and lingcod shall not be taken between a line running due west magnetic from the lighthouse at Point Piedras Blancas and a line running due west magnetic from Point Sal in water less than 40 fathoms. (2) Rockfish and lingcod shall not be taken between a line running 250° magnetic from the Pigeon Point Lighthouse and a line running 240° magnetic from Point Santa Cruz, inside 40 fathoms, by means of drift gill nets or set gill nets which have mesh smaller than 5<sup>1</sup>/<sub>2</sub> inches. (3) Drift gill nets and set gill nets shall not be used nor shall they be possessed on any boat taking rockfish and lingcod with mesh smaller than 4<sup>1</sup>/<sub>8</sub> inches when used in Districts 17 and 18 north of Point Buchon, or with mesh smaller than 4<sup>1</sup>/<sub>8</sub> inches when used in District 18 south of Point Buchon or in District 19. Drift gill nets and set gill nets used or possessed on any boat taking rockfish and lingcod in District 17, 18, or 19, shall not be constructed of twine larger than number 6 nylon, except that the bottom 15 meshes may be constructed of heavier twine. (4) In District 18 south of Point Sal and in District 19, drift gill nets and set gill nets shall not be used to take rockfish and lingcod with the mesh of the net in waters less than 70 fathoms in depth, except that those nets shall not be used in waters less than 100 fathoms in depth at the Sixty Mile Bank. (5) Loads or lots of fish taken in the areas described in paragraphs 1 to 4, inclusive, may contain 200 pounds or less of rockfish and lingcod in combination, but in no instance more than 100 pounds of rockfish. (6) Gill nets shall not be used to take rockfish in District 20A.

**§8694. Prohibited use or possession in District 19A.**

In District 19A, gill nets may not be used, nor may they be possessed on any boat.

**§8696. Use from western point of Point Reyes headlands.**

Except as otherwise provided, set gill nets may be used south of a line extending 245° magnetic from the western point of the Point Reyes headlands in Marin County except for the taking of salmon.

**§8700. Gill net as trammel net.**

Any line used on a gill net which shall tend to cause the webbing of such gill net to bag or hang slack shall cause such net to lose its identity as a gill net and become a trammel net.

**§8720. "Trammel net".**

"Trammel net" includes entangling nets constructed of more than one wall of webbing.

**§8724. Use in Districts 10, 17, 18, and 19; Exceptions.**

(a) Except as otherwise provided, in Districts 10, 17, 18, and 19, drift and set trammel nets may be used if the meshes are at least 8<sup>1</sup>/<sub>2</sub> inches in length, except that these nets may not be used in District 18 within 750 feet of any pier or jetty, nor may they be used for the taking of salmon.

**§8725. Prohibited use or possession in District 19A.**

In District 19A, trammel nets may not be used, nor may they be possessed on any boat.

## GHOST SHRIMP

### Title 14 Excerpts

#### §120.6. Use of Powered Equipment of the Type, Size and Specifications Hereinafter Noted to Take Crustaceans.

Powered equipment may be used to take only *Callinassa affinis*, *Callinassa californiensis*, and *Callinassa giga* (commonly called ghost shrimp) under the following conditions:

(a) Powered equipment is a hand operated hydraulic pump or a pump driven by an engine not to exceed 5 horsepower. Intake and outlets of suction and hydraulic nozzles shall not be in excess of an inside diameter of 2 inches. The hydraulic nozzle shall not be longer nor extended into any tideland sands to a depth greater than 3 feet, and all engine-driven pumps shall have a shut-off valve at the nozzle.

(b) Each person operating or assisting in operating such equipment will be required to possess a commercial fishing license and a permit as provided by this section.

(c) Permits may be issued annually for the period of the commercial fishing license on application filed at one of the Department of Fish and Game offices. Permits may contain additional terms and conditions, including areas of use, as prescribed by the Department of Fish and Game.

(d) Powered equipment may be used on intertidal areas, that is, between high water and low water marks, except powered equipment shall not be used in Tomales Bay, Bodega Harbor or Bolinas Lagoon. In Morro Bay engine-driven hydraulic pumps may not be used south of a line running 230° magnetic from the public boat ramp at the south end of the Embarcadero.

(e) Holes created in the mudflat surface by engine-driven pumps shall not exceed 8 feet in any horizontal dimension, nor more than 12 inches in depth.

(f) Mollusks and crustaceans, other than ghost shrimp, exposed or hydraulically sluiced to the surface, shall be returned immediately to their natural habitat, and no fish, mollusks or crustaceans, other than ghost shrimp shall be possessed by the permittee at any time during pumping operations or while traveling to or from pumping operations.

(g) Each permittee shall have his permit in his possession while operating such equipment.

(h) A permit shall not be assigned or transferred, and any right or privilege granted thereunder is subject to revocation by the Fish and Game Commission at any time.

(i) All provisions of the following numbered sections of the Fish and Game Code shall be a condition of all permits to be fully performed by the holders thereof, via: 7700-7855, 8010-8024, 8250-8283, 8603, 8630-8634, 9050-9053. All section numbers are inclusive.

(j) Permits shall only be issued upon the conditions contained in the application and signed by the applicant that he has read, understands, and agrees to be bound by all terms of the permit.

(k) Any permit may be revoked or suspended for a period fixed by the commission, upon the breach or violation of the terms of the permit, or any of the foregoing sections of the Fish and Game Code, or any of these regulations, or if, in the opinion of the department, the resource is endangered. Any person who has had his permit revoked may be required to appear before the Fish and Game Commission when applying for a new permit. For a period of not more than one year, the commission may defer action upon the application of any person who uses powered equipment to take ghost shrimp without first having secured a permit under these regulations.

## GOLDEN, SPOT AND RIDGEBACK PRAWN

Golden, spot and ridgeback prawn permit holders are also subject to the provisions of §§120, 150.06, 189, 190, Title 14, of the CCR.

### Title 14 Excerpts

#### §120.3. Golden Prawn (*Penaeus californiensis*), Spot Prawn (*Pandalus platyceros*) and Ridgeback Prawn (*Eusicyonia ingentis*) Trawling.

Prawns may only be taken by trawl nets for commercial purposes pursuant to sections 120 and 120.3 of these regulations, or by traps, pursuant to sections 180, 180.2, 180.5 and this section. Spot prawns may not be taken or possessed using trawl nets. Permits to use or possess trawl nets for the taking of golden prawns and ridgeback prawns in ocean waters may be granted only under the following conditions:

(a) Qualifications of Permittee. The applicant must be a licensed commercial fisherman and operator of a currently registered commercial fishing vessel.

(b) Cost of Permit. See subsection 699(b) of these regulations for the fee for this permit. (NOTE: this fee shall be charged effective April 1, 1992.)

(c) Permit Area. Trawling for golden and ridgeback prawns shall be permitted in waters not less than 25 fathoms in depth and lying not nearer than three nautical miles distance from the nearest point of land on the mainland shore, and from all offshore islands. No trawling shall be conducted in the cowcod closure areas defined in Section 150.06, Title 14, CCR. Also, trawling shall not be conducted within District 19A which shall include a line from Malibu Point (34°01.8'N., 118°40.8'W) to Rocky Point (Palos Verdes Point) (33°46.5'N., 118°25.7'W.).

(1) Trawling Zones.

(A) Trawling Zone 1: Includes waters between the California-Oregon border and a line extending due west from False Cape (Lat. 40°31'N).

(B) Trawling Zone 2: Includes those waters between a line extending due west from False Cape and a line extending due west from Lopez Point (Lat. 36° N).

(C) Trawling Zone 3: Includes those waters between a line extending due west from Lopez Point and a line extending due west from Point Arguello (Lat. 34°35'N).

(D) Trawling Zone 4: Includes those waters between a line extending due west from Point Arguello and a line extending due west from Point Dume (Lat. 34°0'N).

(E) Trawling Zone 5: Includes those waters lying between a line extending due west from Point Dume and the California-Mexico boundary, excluding Fish and Game Districts 19A, 19B, 20, 20A and 21.

(d) Restricted Catch Period:

Trawling for ridgeback prawns in all zones shall be subject to the incidental catch restrictions pursuant to subsection (g) from June 1 through September 30.

(e) Gear Specifications.

(1) Trawl nets with single-walled bag or cod-end: The mesh of any webbing shall not be less than 1 1/2 inches in length.

(2) Trawl nets with double-walled bag or cod-end: The mesh of any webbing or liner shall not be less than 3 inches in length. The lines and cod-end shall be tied together along the rib lines.

(3) Mesh measurement. Minimum trawl mesh size requirements are met if a standard stainless steel wedge of appropriate gauge can be passed with thumb pressure only through 16 of 20 sets of two meshes each of wet mesh in the cod-end.

(f) Limitation of Gear.

(1) No net, the meshes of which are less than prescribed in these regulations, may be possessed on any vessel which is operating under the provisions of a golden prawn or ridgeback prawn permit.

(2) All fishing gear used under the provisions of these regulations is subject to inspection and approval by the department at any time.

(3) On request, any authorized representative of the department shall be permitted to travel on the permittee's boat to observe golden prawn or ridgeback prawn trawling operations.

(g) Incidental Catch Restrictions.

(1) Not more than 1,000 pounds of any fish caught incidentally with pink shrimp, golden or ridgeback prawns may be possessed on any boat operating under a permit as provided in these regulations. Fisherman should refer to subsection 189(a), Title 14, CCR, for bycatch limits of federally-managed groundfish species. Any amount of sea cucumbers taken incidentally may be possessed if the owner or operator of the vessel possesses a permit to take sea cucumbers pursuant to Section 8405 of the Fish and Game Code.

(2) During the restricted catch period for ridgeback prawns, loads of fish shall not contain more than 50 pounds without restriction or 15%, by weight, of ridgeback prawns. For the purpose of this regulation, species of fish other than spot prawns shall not be included in the determination of the percentage of ridgeback prawns taken or possessed in any load of fish containing mixed species.

(3) Trawl loads of fish shall not contain more than 50 pounds without restriction or 15%, by weight, of spot prawns. For the purpose of this regulation, species of fish other than ridgeback prawns shall not be included in the determination of the percentage of spot prawns taken or possessed in any load of fish containing mixed species.

(h) Records. Pursuant to Section 190 of these regulations, each permittee shall complete and submit an accurate record of his fishing activities on a form (Shrimp/Prawn Trawl Log, DFG 120 (10/89), see Appendix A) provided by the department.

(i) Conditions of Permit. The provisions of the California Fish and Game Code relating to commercial fishing, except as modified by the provisions of these regulations, shall be a condition of all permits to be fully performed by the holders thereof, their agents, servants, employees, or those acting under their direction and control.

(j) Revocation of Permits. All permits may be revoked and cancelled by the commission upon the breach or violation of any fish and game law or regulation or violation of the terms or conditions of this permit by the holders thereof, their agents, servants, employees or those acting under their direction and control.

**§120.4. Restricted Access Fishery.**

A control date of January 1, 1999, is established for the purpose of developing a restricted access spot, ridgeback, and golden prawn trawl fishery. Only those vessels which have made at least one spot, ridgeback, or golden prawn landing with trawl gear before this date may be considered for inclusion in the restricted access trawl fishery.

**FGC Excerpts**

**§8590. “Prawns”; “Shrimp”.**

For the purposes of this article, “prawns” or “shrimp”, or both, include all of the following species:

- (a) Spot prawn (*Pandalus platyceros*).
- (b) Ridgeback prawn (*Sicyonia ingentis*).
- (c) Coonstripe prawn (*Pandalus danae*).
- (d) Pacific ocean shrimp (*Pandalus jordani*).
- (e) Bay Shrimp (*Crago franciscorum and Crago sp.*)
- (f) Red rock shrimp (*Lysmata californica*).

**§8591. Taking for commercial purposes.**

Prawns or shrimp may be taken for commercial purposes under the regulations of the commission.

**§8593. Areas for taking.**

Except as provided in this article, prawns or shrimp may be taken in any waters of the state.

**§8595. Use of trawl nets and traps; Incidental takings.**

(a) Prawns or shrimp may be taken for commercial purposes with a trawl net, subject to Article 10 (commencing with Section 8830) of Chapter 3, or in either a prawn trap or a shrimp trap, subject to Article 1

(commencing with Section 9000) of Chapter 4.

(b) No other species shall be taken in a prawn trap or a shrimp trap. Any other species taken incidentally with a prawn trap or a shrimp trap shall be immediately released.

**§8830. “Trawl net”.**

“Trawl net” means a cone or funnel-shaped net which is towed or drawn through the water by a fishing vessel and includes any gear appurtenant to the net. Except as otherwise provided in this article, the use of trawl nets shall conform to federal groundfish regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C., Sec. 1801 et seq.).

**§8834. Maximum weight of crab to be taken or possessed on boat with trawl or drag net.**

It is unlawful to take or possess more than 500 pounds of crabs on any boat on which any type of trawl or drag net is carried or operated.

**§8834.1. Possession on board, or landing of salmon from vessel.**

It is unlawful for any person to possess salmon on board, or to land salmon from, a vessel on which exists any type of trawl net, except that salmon taken incidentally with other species with a trawl net may be possessed and landed if authorized to be taken incidentally pursuant to Section 663.10 of Part 663 of Title 50 of the Code of Federal Regulations, pursuant to a permit issued by the commission under Section 8606, or pursuant to both.

**§8834.5. Taking or possession of Dungeness crab from vessel with trawl or drag net; Transfer to another vessel.**

South of a line extending due west, true, from Point Reyes, it is unlawful for any person on a vessel on which any type of trawl or drag net is carried or operated to take or possess Dungeness crab, as defined in Section 8275, or to transfer Dungeness crab to another vessel.

**§8837. Use or possession of net including bag or cod-end.**

It is unlawful to use or possess any trawl net that includes any bag or cod-end or modification thereof, other than a bag or cod-end of a single layer of webbing, except as authorized by Section 8496 or by the commission.

**§8840. Chafing gear.**

Chafing gear may be used or possessed but shall not be connected directly to the terminal, or closed, end of the cod-end. Except for chafing gear prescribed under federal groundfish regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C., Sec. 1801 et seq.), all chafing gear shall have a minimum mesh size of six inches, unless only the bottom one-half, or underside, of the cod-end is covered by chafing gear, which may be of any size mesh.

**§8841. Bottom Trawl Fisheries**

(a) The commission is hereby granted authority over all state-managed bottom trawl fisheries not managed under a federal fishery management plan pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.) or a state fishery management plan pursuant to the Marine Life Management Act (Chapter 1052 of the Statutes of 1998), to ensure that resources are sustainably managed, to protect the health of ecosystems, and to provide for an orderly transition to sustainable gear types in situations where bottom trawling may not be compatible with these goals.

(b) The commission is hereby granted authority to manage all of the fisheries described in subdivision (a) in a manner that is consistent with the requirements of this section and in accordance with the requirements of Part 1.7 (commencing with Section 7050), including, but not limited to, the following:

- (1) California halibut.
- (2) Sea cucumber.

(3) Ridge-back, spot, and golden prawn.

(4) Pink shrimp.

(c) The commission is also granted authority over other types of gear targeting the same species as the bottom trawl fisheries referenced in subdivision (a) to manage in a manner that is consistent with the requirements of Part 1.7 (commencing with Section 7050).

(d) Every commercial bottom trawl vessel issued a state permit is subject to the requirements and policies of the federal groundfish observer program (50 C.F.R. 660.360).

(e) The commission may not authorize additional fishing areas for bottom trawls, unless the commission determines that adequate evidence establishes that additional fishing areas are sustainable, do not harm bottom habitat, and do not reasonably conflict with other users.

(f) It is unlawful to use roller gear more than eight inches in diameter.

(g) Commencing April 1, 2006, it is unlawful to fish commercially for prawns or pink shrimp, unless an approved bycatch reduction device is used with each net. For the purposes of this subdivision, a rigid grate fish excluder device is the approved type of bycatch reduction device, unless the commission, the Pacific Fishery Management Council, or the National Marine Fisheries Service determines that a different type of fish excluder device has an equal or greater effectiveness at reducing bycatch.

(h) Except as provided in Section 8495 or 8842, it is unlawful to engage in bottom trawling in ocean waters of the state.

(i) This section does not apply to the use of trawl nets pursuant to a scientific research permit.

(j) The commission shall facilitate the conversion of bottom trawlers to gear that is more sustainable if the commission determines that conversion will not contribute to overcapacity or overfishing. The commission may participate in, and encourage programs that support, conversion to low-impact gear or capacity reduction by trawl fleets. The department may not issue new permits to bottom trawlers to replace those retired through a conversion program.

(k) As soon as practicable, but not later than May 1, 2005, the commission and the department shall submit to the Pacific Fishery Management Council and the National Marine Fisheries Service a request for federal management measures for the pink shrimp fishery that the commission and the department determine are needed to reduce bycatch or protect habitat, to account for uncertainty, or to otherwise ensure consistency with federal groundfish management.

(l) No vessel may utilize bottom trawling gear without a state or federal permit.

#### **§8842. Permit to use trawl net to take shrimp or prawns; Incidentally taken fish.**

(a) Trawl nets of a design prescribed by the commission may be used or possessed to take shrimps or prawns under a permit issued by the department under regulations adopted by the commission.

Sections 8831, 8833, 8835, and 8836 do not apply to trawl nets used or possessed under a permit issued pursuant to this section.

(b) Trawling for shrimps or prawns shall be authorized only in those waters of Districts 6, 7, 10, 17, 18, and 19 that lie not less than three nautical miles from the nearest point of land on the mainland shore, and all offshore islands and the boundary line of District 19A, except that in waters lying between a line extending due west from False Cape and a line extending due west from Point Reyes, trawling is allowed not less than two nautical miles from the nearest point of land on the mainland shore until January 1, 2008.

(c) When fishing for pink shrimp (*Pandalus jordani*) under a permit issued pursuant to this section, it is unlawful to possess in excess of 1,500 pounds of incidentally taken fish per calendar day of a fishing trip, except Pacific whiting, shortbelly rockfish, and arrowtooth flounder, which may be taken in any amount not in excess of federal regulations. No Pacific halibut and not more than 150 pounds of California halibut shall be possessed or landed when fishing under a permit issued pursuant to this section. When fishing for ridgeback prawn and spotted prawn

under a permit issued pursuant to this section, it is unlawful to possess in excess of 1,000 pounds of incidentally taken fish per trip.

(d) Commencing January 1, 2008, the commission shall permit the taking of pink shrimp not less than two nautical miles from shore in waters that lie between a line extending due west from False Cape and a line extending due west from Point Reyes from the nearest point of land on the mainland shore, if the commission finds that, upon review of information from the federal groundfish observer program and other available research and monitoring information that it determines relevant, the use of trawl gear minimizes bycatch, will not damage seafloor habitat, will not adversely affect ecosystem health, and will not impede reasonable restoration of kelp, coral, or other biogenic habitats. The commission shall pay special attention to areas where kelp and other biogenic habitats existed and where restoring those habitats is feasible, and to hard bottom areas and other substrate that may be particularly sensitive to bottom trawl impacts in making that finding.

## **GROUNDFISH**

### **Title 14 Excerpts**

#### **§189. Commercial Groundfish Fishing**

(a) General Provisions. No person shall engage in commercial groundfish fishing except as provided by the Fish and Game Code and regulations provided herein. Applicable regulations adopted by the U.S. Secretary of Commerce pursuant to the Magnuson Fishery Conservation and Management Act and published in Title 50, Code of Federal Regulations (CFR), Parts 600 and 660 are hereby incorporated and made a part of these regulations. Federal regulations shall be made available upon request from the Department of Fish and Game, Marine Region, 1416 Ninth Street, BOX 944209, Sacramento, CA 94244 2090, phone number (916) 653-6281.

(b) General Definitions. For the purposes of these regulations, the following definitions shall apply:

(1) Land or Landing. The transfer of fish from a fishing vessel. Once offloading begins, all fish aboard the vessel are counted as part of the landing.

(2) Closure. Taking and retaining, possessing, or landing the particular species or species group is prohibited. Unless otherwise announced in the Federal Register, offloading must begin before the time the fishery closes.

(3) Sorting. It is unlawful for any person to fail to sort prior to the first weighting after offloading, those groundfish species or species groups for which there is a trip limit, size limit, quota, or optimum yield, if the vessel fished or landed in an area during a time when such trip limit, size limit, quota, or optimum yield applied. This provision applies to both the limited entry and open access fisheries.

(4) Trip Limits. Trip limits specify the amount of fish that a vessel may legally land per fishing trip or cumulatively per unit of time or the number of landings of fish that may be made by a vessel in a given period of time.

(A) Daily Trip Limit. Daily trip limit is the maximum amount of groundfish that may be taken and retained, possessed, or landed per vessel in 24 consecutive hours, starting at 0001 hours local time. Only one landing of groundfish shall be made in that 24 hour period. Daily trip limits shall not be accumulated during multiple day trips.

(B) Cumulative Trip Limit. Cumulative trip limit is the maximum amount of groundfish that may be taken and retained, possessed, or landed per vessel in a cumulative fishing period, without a limit on the number of landings or trips.

(5) Size Limits and Length Measurement. Total length is measured from the tip of the snout (mouth closed) to the tip of the tail (pinched together) without mutilation of the fish or the use of additional force to extend the length of the fish.

(6) Limited Entry Fishery. Limited entry fishery includes vessels using trawl gear, longline, and trap (or pot) gear fished pursuant to the harvest

guidelines, quotas, and other management measures governing the limited entry fishing. Limited entry gear includes only longline, trap (or pot) or trawl gear used under the authorization of a valid limited entry permit.

(7) Open Access Fishery. Open access fishery includes vessels using exempted gear, and longline and trap (or pot) gear fished pursuant to the harvest guidelines, quotas, and other management measures governing open access fishing. Exempted gear includes all types of fishing gear except longline, trap (or pot), and groundfish trawl gear, and includes trawl gear used to take pink shrimp, and spot and ridgeback prawns, and south of 38° 57'30" N (Point Arena), California halibut and sea cucumber. A State of California limited entry permit is required for the take of sea cucumbers.

(8) Federally Designated Routine Management Measures. Routine Management Measures, identified as catch restrictions intended to keep landings within the harvest levels announced by the Secretary of Commerce and noticed in the Federal Register by the National Marine Fisheries Service, and hereby incorporated and made a part of these regulations. Should any federal management measures conflict with existing statutes, including Fish and Game Code Sections 8496 and 8842(b), or regulations of the commission, the provisions in the statutes or regulations which conflict with the federal management measures are made inoperative.

## HALIBUT

Beginning April 1, 2006, Fish and Game Code (FGC) Section 8494 requires that any vessel using bottom trawl gear in the California halibut fishery must possess a valid California Halibut Bottom Trawl Vessel Permit (CHBTVP) issued by the Department of Fish and Game. At the time of publication, regulations had not been adopted by the Fish and Game Commission to implement the requirements for a CHBTVP.

Please visit the Department's Marine Region web site at [www.dfg.ca.gov/mrd/index.html](http://www.dfg.ca.gov/mrd/index.html) or contact Mr. Gary Stacey, Regional Manager, Marine Region, at (562) 342-7108 or email [Gstacey@dfg.ca.gov](mailto:Gstacey@dfg.ca.gov) for more information.

## FGC Excerpts

### §8494. Halibut Bottom Trawl Permits Required.

(a) Commencing April 1, 2006, any vessel using bottom trawl gear in state-managed halibut fisheries, as described in subdivision (a) of Section 8841, shall possess a valid California halibut bottom trawl permit that has not been suspended or revoked and that is issued by the department authorizing the use of trawl gear by that vessel for the take of California halibut.

(b) A California halibut bottom trawl vessel permit shall be issued annually, commencing with the 2006 permit year. Commencing with the 2007-08 season, in order to be eligible for that permit, an applicant shall have been issued a California halibut bottom trawl vessel permit in the immediately preceding permit year.

(c) The department shall not issue a California halibut bottom trawl vessel permit pursuant to this section for use in the California halibut fishery unless that vessel has landed a minimum of 200 pounds of California halibut and reported that landing on fish landing receipts as being caught with bottom trawl gear in at least one of the following:

- (1) At least two of the calendar years 1995 to 2003, inclusive.
- (2) At least one of the calendar years 1995 to 2003, inclusive, and from January 1, 2004, to February 19, 2004, inclusive.

(d) Permits issued pursuant this section may be transferred only if at least one of the following occur:

- (1) The commission adopts a restricted access program for the fishery that is consistent with the commission's policies regarding restricted access to commercial fisheries.

(2) Prior to the implementation of a restricted access program, the permit is transferred to another vessel owned by the same permit holder of equal or less capacity, as determined by the department, and if the originally permitted vessel was lost, stolen, destroyed, or suffered a major irreparable mechanical breakdown. The department may not issue a permit for a replacement vessel if the department determines that the originally permitted vessel was fraudulently reported as lost, stolen, destroyed, or damaged. Only the permit holder at the time of the loss, theft, destruction, or irreparable mechanical breakdown of a vessel may apply to transfer the vessel permit. Evidence that a vessel is lost, stolen, or destroyed shall be in the form of a copy of the report filed with the United States Coast Guard, or any other law enforcement agency or fire department that conducted an investigation of the loss.

(3) Prior to the implementation of a halibut trawl restricted access program, the commission may consider requests from a vessel permit holder or his or her conservator or estate representative to transfer a permit with the vessel if both of the following conditions are met:

(A) The permit holder has died, is permanently disabled, or the permit holder is at least 65 years of age and has decided to retire from commercial fishing.

(B) California halibut landings contributed significantly to the record and economic income derived from the vessel, as determined by regulations adopted by the commission. The commission may request information that it determines is reasonably necessary from the permit holder or his or her heirs or estate for the purpose of verifying statements in the request prior to authorizing the transfer of the permit.

(e) The commission shall establish California halibut bottom trawl vessel permit fees based on the recommendations of the department and utilizing the guidelines outlined in subdivision (b) of Section 711 to cover the costs of administering this section. Prior to the adoption of a restricted access program pursuant to subdivision (d), fees may not exceed one thousand dollars (\$1,000) per permit.

(f) Individuals holding a federal groundfish trawl permit may retain and land up to 150 pounds of California halibut per trip without a California halibut trawl permit in accordance with federal and state regulations, including, but not limited to, regulations developed under a halibut fishery management plan.

(g) This section shall become inoperative upon the adoption by the commission of a halibut fishery management plan in accordance with the requirements of Part 1.7 (commencing with Section 7050).

(h) The commission may adopt regulations to implement this section.

### §8495. Designated Area.

(a) The following area is designated as the California halibut trawl grounds:

The ocean waters lying between one and three nautical miles from the mainland shore lying south and east of a line running due west (270° true) from Point Arguello and north and west of a line running due south (180° true) from Point Mugu.

(b) Notwithstanding the provisions of subdivision (a), the use of trawl gear for the take of fish is prohibited in the following areas of the California halibut trawl grounds:

(1) Around Point Arguello. The area from a line extending from Point Arguello true west (270°) and out three miles, to a line extending from Rocky Point true south (180°) and out three miles.

(2) Around Point Conception. From a point on land approximately one-half mile north of Point Conception at latitude 34° 27.5' extending seaward true west (270°) from one to three miles, to a point on land approximately 1/2 mile east of Point Conception at longitude 120° 27.5' extending seaward true south (180°) from one to three miles.

(3) In the Hueneme Canyon in that portion demarked by the IMO Vessel Traffic safety zone on NOAA/NOS Chart 18725 and from one mile to the three mile limit of state waters.

(4) In Mugu Canyon, from Laguna point, a line extending true south (180°) and out three miles, to Point Mugu, a line extending true south

(180°) and from one to three miles.

(c) (1) Notwithstanding the provisions of subdivision (a), commencing April 1, 2008, the following areas in the California halibut trawl grounds shall be closed to trawling, unless the commission finds that a bottom trawl fishery for halibut minimizes bycatch, is likely not damaging sea floor habitat, is not adversely affecting ecosystem health, and is not impeding reasonable restoration of kelp, coral, or other biogenic habitats:

(A) The ocean waters lying between one and three nautical miles from the mainland shore from a point east of a line extending seaward true south (180°) from a point on land approximately 1/2 mile east of Point Conception at longitude 120° 27.5" to a line extending due south from Gaviota.

(B) The ocean waters lying between one and two nautical miles from the mainland shore lying east of a line extending due south from Santa Barbara Point (180°) and west of a line extending due south from Pitas Point (180°).

(C) Except as provided in subdivision (b), the ocean waters lying between one and three nautical miles from the mainland shore lying south and east of a line running due west (270° true) from Point Arguello to a line extending seaward true south (180°) from a point on land approximately 1/2 mile east of Point Conception at longitude 120° 27.5", and from the western border of the IMO Vessel Traffic safety zone on NOAA/NOS Chart 18725 in Hueneme Canyon running south and east to a line running due south (180° true) from Point Mugu.

(2) In making the finding described in paragraph (1), the commission shall pay special attention to areas where kelp and other biogenic habitats existed and where restoring those habitats is reasonably feasible, and to hard bottom areas and other substrate that may be particularly sensitive to bottom trawl impacts.

(d) Commencing January 1, 2008, the commission shall review information every three years from the federal groundfish observer program and other available research and monitoring information it determines relevant, and shall close any areas in the California halibut trawl grounds where it finds that the use of trawl gear does not minimize bycatch, is likely damaging sea floor habitat, is adversely affecting ecosystem health, or impedes reasonable restoration of kelp, coral, or other biogenic habitats. The commission shall pay special attention to areas where kelp and other biogenic habitats existed and where restoring those habitats is reasonably feasible, and to hard bottom areas and other substrate that may be particularly sensitive to bottom trawl impacts in making that finding.

(e) Notwithstanding any other provision of law, the commission shall determine the size, weight, and configuration of all parts of the trawl gear, including, but not limited to, net, mesh, doors, appurtenances, and towing equipment as it determines is necessary to ensure trawl gear is used in a sustainable manner within the California halibut trawl grounds.

#### §8496. Trawl Nets; Season, Taking Requirements

Within the California halibut trawl grounds the following requirements shall apply to the use of trawl nets:

(a) Open season shall be June 16 to March 14, inclusive.

(b) California halibut shall only be taken pursuant to Section 8392.

(c) Not more than 500 pounds of fish other than California halibut may be possessed, except that any amount of sea cucumbers may be possessed by a person who holds a valid sea cucumber permit and who meets any conditions adopted by the commission pursuant to Section 8405.3, and any amount of sharks, skates, or rays for which the take or possession of that species is not otherwise prohibited by this code may be taken or possessed.

(d) It is unlawful to operate a trawl net in a way that damages or destroys other types of fishing gear which is buoyed or otherwise visibly marked.

(e) Sections 8833 and 8836 do not apply to trawl nets when used or possessed on California halibut trawl grounds.

(f) Trawl nets described in Section 8843 shall only be used within the halibut trawl grounds.

(g) Single bags and cod-ends or double bags and cod-ends may be used within the halibut trawl grounds and may be possessed while a vessel is in transit directly to the halibut trawl grounds or returning directly to port. Double bags shall be hung and tied to each rib line so that the knots of each layer coincide, knot for knot, for the full length of the double layers. The double mesh section shall not measure over 25 meshes or 12 feet in length, whichever is greater. The individual meshes in the double section shall measure not less than 7½ inches in length.

(h) No net, whose cod-end meshes are less than prescribed in this section, may be possessed on any vessel that is operating under the authority of this section.

## LOBSTER

### Title 14 Excerpts

#### §121. Lobsters, Spiny - Possession During Closed Season.

No spiny lobsters may be sold or possessed during the closed season except as follows: Lobsters taken or imported during the open season which were cooked and frozen or frozen prior to the close of the open season, and lobsters imported into California during the twenty-six (26) days following the close of the open season, provided such lobsters were cooked and frozen or frozen prior to importation. During the closed season, after the twenty-six (26) day importation period, no spiny lobsters may be possessed on any boat, barge, or vessel.

#### §121.5. Lobsters, Spiny. Verification of Size.

(a) All California spiny lobsters (*Panulirus interruptus*) taken, possessed, transported or sold must be maintained in such a condition that their size can be determined pursuant to Fish and Game Code Section 8252 until prepared for immediate consumption or sold to the ultimate consumer except as provided for in subsection (b) below.

(b) California spiny lobsters may be split along the midline of the carapace by persons licensed pursuant to Fish and Game Code Section 8034 (Fish Processors License) or 8037 (Commercial Fish Business License) provided both halves of each lobster are kept together by banding or packaging until either displayed for purchase by the ultimate consumer or prepared for immediate consumption.

#### §122. Lobsters, Permits to Take.

(a) Classes of Lobster Permits.

(1) There is a transferable lobster operator permit, a nontransferable lobster operator permit and a lobster crewmember permit.

(2) Under operator permits issued by the department, licensed commercial fishermen may use traps to take spiny lobsters for commercial purposes in Districts 18, 19, 20A, and that part of District 20 southerly of Santa Catalina Island between Southeast Rock and China Point. No other method of take is authorized for the commercial harvest of spiny lobsters.

(3) Any licensed commercial fisherman not eligible to obtain a lobster operator permit pursuant to this section may purchase a lobster crewmember permit, authorizing him/her to accompany the holder of a lobster operator permit and to assist that person in the commercial take of spiny lobster.

(b) Each lobster permit shall be issued annually and shall be valid for the period of the commercial lobster season. Each operator and crewmember permittee shall have his/her permit in possession when taking lobsters.

(c) Except as provided in this section, a permit shall not be assigned or transferred, and any right or privilege granted thereunder is subject to revocation, without notice, by the Fish and Game Commission, at any time.

(d) Applicants for the renewal of lobster operator permits shall have held a valid, lobster operator permit, that has not been suspended or revoked, in the immediately preceding permit year.

(e) Transferable Lobster Operator Permit Qualification Criteria and Procedures:

(1) To qualify for a transferable lobster operator permit, an individual shall hold a valid 2005-06 lobster operator permit that has not been suspended or revoked and have landed a minimum of 500 pounds of lobster per year during any 4 of the 5 permit years from 1996-97 through 2000-01, inclusive, or have landed a minimum of 2,000 pounds of lobster per year during any 2 of those 5 permit years as documented by fish landing receipts submitted to the department in his/her name and commercial fishing license identification number pursuant to Section 8046, Fish and Game Code.

(2) Beginning on July 1, 2005 or 30 calendar days after the effective date of these regulations, whichever date is later, the department shall make an initial determination, based on department records, of which holders of valid 2005-06 lobster operator permits, that have not been suspended or revoked, meet the qualifications for a transferable lobster operator permit specified in subsection (e)(1) above and shall mail notice of such determination, to the last address on record with the department, to all 2005-06 lobster operator permit holders.

Each person who meets the qualifications will have his/her permit designated by the department as a transferable lobster operator permit.

(3) The holder of a 2005-06 lobster operator permit who is notified by the department that he/she does not meet the qualifications for a transferable lobster operator permit may submit to the department's License and Revenue Branch, 3211 "S" Street, Sacramento, CA 95816, copies of fish landing receipts that have been issued in his/her name and commercial fishing license identification number pursuant to sections 8043 and 8046, Fish and Game Code, that demonstrate he/she does meet the qualifications in subsection (e)(1) above. Such fish landing receipts and a letter requesting that his/her permit be designated as a transferable lobster operator permit shall be submitted to the department on or before March 31, 2006. Any request postmarked or presented after March 31, 2006 will not be considered.

(4) The holder of a 2005-06 lobster operator permit not able to meet these qualification criteria or meeting them and failing to submit his/her fish landing receipts on or before March 31, 2006, pursuant to subsection (e)(3) above shall have his/her permit designated a non-transferable lobster operator permit, effective with the 2006-07 license year.

(5) The holder of a valid lobster operator permit that has not been suspended or revoked, from the immediately preceding permit year shall be eligible to purchase a lobster operator permit of the same classification.

(f) Procedures and Deadline for Permit Renewal and Forfeiture of Non-renewed Permits. Applications for renewal of transferable and non-transferable lobster operator permits must be received by the department or if mailed, postmarked not later than April 30 of each year.

Applications presented or postmarked after April 30 and before June 1 will be assessed a late penalty pursuant to Section 7852.2 of the Fish and Game Code. Applications postmarked or presented after May 31 will not be considered. The holder of a transferable or non-transferable lobster operator permit who fails to renew his/her permit on or before May 31 will be considered to have forfeited that permit to the department and shall thereafter be able to commercially fish for lobster only under the authority of a lobster crewmember permit or by obtaining a transferable lobster operator permit pursuant to these regulations.

(g) Procedures, Timelines and Initial Limit on Permit Transfers.

(1) The holder of a valid transferable lobster operator permit that has not been suspended or revoked may transfer his/her permit to another person licensed as a California commercial fisherman. The application to transfer a permit shall be in the form of a notarized letter from the existing permit holder identifying the transferee and shall include the original transferable lobster operator permit, a copy of the transferee's commercial fishing license and a nonrefundable permit transfer fee of five hundred dollars (\$500). The application shall be submitted to the department's License and Revenue Branch, 3211 "S" Street, Sacramento, CA 95816. The transferable lobster operator permit shall be valid for the remainder, if any, of the then current lobster season and may be renewed in subsequent years pursuant to these regulations. If the transferee holds

a non-transferable lobster operator permit, that permit shall be cancelled.

(2) Not more than 10 applications to transfer a permit shall be processed by the department during each license year (April 1 - March 31) until March 31, 2008, after which date there is no limit on the number of transfers that may be processed during a license year. Applications will be processed in the order received. If on any given day the number of applications received is greater than the available number of transfers, the department shall conduct a drawing to determine which application(s) shall be processed. This subsection shall not apply in the event of the death of the permit holder. The estate of the holder of a transferable lobster operator permit may renew that permit as provided for in these regulations if needed to keep it valid. The estate of the decedent may transfer that permit pursuant to subsection (g)(1) above not later than one year from the date of death of the permit holder as listed on the death certificate.

(h) No SCUBA equipment or other artificial breathing device may be used to take lobster on any boat being operated pursuant to a commercial lobster permit.

(i) All provisions of the Fish and Game Code and regulations of the Fish and Game Commission relating to lobsters shall be a condition of all permits to be fully performed by the holders thereof, their agents, servants, employees, or those acting under their direction or control.

(j) Exemption from Tidal Invertebrate Permit. A lobster operator or crewmember operating under the provisions of a lobster permit is not required to possess a Tidal Invertebrate Permit, but is subject to the provisions of Section 123.

(k) No lobster trap used under authority of this permit shall be pulled or raised or placed in the water between one hour after sunset to one hour before sunrise.

(l) All lobster traps and receivers impounding lobsters shall be individually buoyed. The buoys must be on the surface of the water, except after the first Tuesday in October when buoys may be submerged by means of metallic timing devices, commonly called "pop-ups".

(m) Each buoy identifying a lobster trap shall display the commercial fishing license identification number of the lobster operator permit holder followed by the letter P. The commercial fishing license number and the letter P shall be in a color which contrasts with that of the buoy and shall be at least one (1) inch in height and at least one-eighth (1/8) inch in width.

(n) Any person pulling or raising lobster traps and receivers bearing a commercial fishing license number other than his/her own must have in his/her possession from the party who holds the permit assigned to said gear written permission to pull the traps, or receivers.

(o) The employees of the department may disturb or move any lobster trap at any time while such employees are engaged in the performance of their official duties and shall inspect any lobster trap to determine whether it is in compliance with all provisions of the Fish and Game Code and regulations of the commission.

(p) During the closed season for the taking of spiny lobster, no buoy attached to any trap may be marked in such manner as to identify the trap as a lobster trap, except that legally marked lobster traps may be placed in the water not more than six (6) days before the opening of the season and may remain in the water for not more than six (6) days after the close of the season, if the door or doors to such traps are wired open, the trap is unbaited, the buoy remains at the surface of the ocean, and no attempt is made to take spiny lobsters.

(q) Restricted fishing areas.

(1) No lobster trap used under the authority of this permit shall be used within 750 feet of any publicly-owned pier, wharf, jetty or breakwater; however, such traps may be used to within 75 feet of any privately-owned pier, wharf, jetty or breakwater.

(2) No lobster traps shall be set or operated within 250 feet of the following specified navigation channels.

(A) Newport Bay: Starting at the demarcation line at the entrance to Newport Bay and extension of the west side channel line, proceed southeasterly on a bearing of 151° magnetic one nautical mile; then northeasterly 44° magnetic 500 feet; then northwesterly 331° magnetic one nautical mile to the demarcation line and an extension of the east side

channel line.

(B) Dana Point Harbor: Starting from Dana Point east jetty light “6,” proceed on a bearing of 120° magnetic 450 yards to red buoy “4”; then south 180° magnetic one nautical mile; then westerly 270°, 300 yards; then north 0° magnetic approximately one nautical mile to Dana Point Harbor light “5”.

(C) Oceanside Harbor: Starting from Oceanside Harbor breakwater light “1,” proceed on a bearing of 225° magnetic for one nautical mile; then southeast for 450 yards on a bearing of 110° magnetic; then northeast on a bearing of 35° magnetic for one nautical mile to Oceanside Harbor south jetty light “2”; then west-southwest on a bearing of 253° to the point of beginning at Oceanside Harbor breakwater light “1.”

(r) Records. Pursuant to section 190 of these regulations, any person who owns and/or operates any vessel used to take lobsters shall complete and submit an accurate record of his/her lobster fishing activities on a form (Daily Lobster Log, DFG 122 (7/96), incorporated herein by reference) provided by the department.

(s) The person required to submit logs pursuant to these regulations shall have complied with said regulations during the immediate past license year, or during the last year such person held a permit, in order to be eligible for a successive year annual permit.

(t) Any person denied a permit under these regulations may request a hearing before the commission to show cause why his/her permit request should not be denied. Such request must be received by the commission within 60 days of the department’s denial. Any person denied the designation of his/her lobster operator permit as a transferable lobster operator permit pursuant to subsection (e) of these regulations may appeal the denial to the commission. Such appeal must be received by the commission within 60 days of the department’s denial.

## FGC Excerpts

### §56. “Net”.

“Net” means any gear made of any kind of twine, thread, string, rope, wire, wood or other materials used for the gilling, entangling, trapping, or impounding of fish.

### §2365. Importation of spiny lobsters after closing of State season; Possession and sale costs.

Spiny lobsters may be imported into California until the twenty-sixth day after the close of the California season. Lobsters imported into California and lobsters legally taken in California during the open season prescribed in this code may be possessed and sold during the closed season, subject to the regulations of the commission.

The cost of inspection and marking, under the regulations of the commission, shall be paid by the importer or owner of the lobsters.

### §8250. “Spiny lobster”.

As used in this code, “spiny lobster” refers to the species *Panulirus interruptus*.

### §8250.5. Taking for commercial purposes; Incidental taking.

(a) Subject to this article and Article 1 (commencing with Section 9000) of Chapter 4, a lobster trap, as described in Section 9010, may be used to take lobster for commercial purposes under a lobster permit issued pursuant to Section 8254.

(b) The following species may be taken incidentally in lobster traps being fished under the authority of a lobster permit issued pursuant to Section 8254, and any other species taken incidentally shall be released:

- (1) Crab, other than Dungeness crab.
- (2) Kelle’s whelk.
- (3) Octopus.

(c) Spiny lobsters taken in the manner commonly known as skindiving or by a person using self-contained underwater breathing apparatus shall not be sold.

### §8251. Season; Authorized setting of traps in advance.

Spiny lobsters may be taken only between the first Wednesday in October and the first Wednesday after the 15th of March. Lobster traps may be set and baited 24 hours in advance of the opening date of the lobster season if no other attempt is made to take or possess the lobsters.

### §8252. Prohibited taking of spiny lobster of specified size.

No spiny lobster less than three and one-quarter inches in length measured in a straight line from the rear edge of the eye socket to the rear edge of the body shell, both points to be on the midline of the back, may be taken, possessed, purchased or sold.

Every person taking spiny lobster shall carry a measuring device and shall measure any lobster immediately on removal from his trap and if it is found to be undersize the lobster shall be returned to the water immediately.

### §8253. Preservation; Freezing and cooking.

It is unlawful to pickle, can or otherwise preserve any spiny lobster, but spiny lobsters may be preserved by freezing and may be cooked for consumption in the fresh state.

### §8254. Lobster permits.

(a) Lobsters shall not be taken for commercial purposes except under a valid lobster permit issued to that person that has not been suspended or revoked, subject to regulations adopted by the commission.

(b) Every person who takes, assists in taking, possesses, or transports lobsters for commercial purposes while on any boat, barge, or vessel, or who uses or operates or assists in using or operating any boat, net, trap, line, or other appliance to take lobsters for commercial purposes, shall have a valid lobster permit.

(c) The permit fee for a lobster permit is two hundred sixty-five dollars (\$265).

(d) The fee for a lobster crewmember permit is one hundred twenty-five dollars (\$125). This subdivision shall become operative on April 1, 1997.

### §8254.7. Complaint charging violation by commercial permitholder; Suspension.

When a complaint has been filed in a court of competent jurisdiction charging a holder of a commercial lobster permit with a violation of Section 8251 or 8252, and no disposition of the complaint has occurred within 90 days after it has been filed in the court, the department may suspend the commercial lobster permit of the person. The permitholder whose permit was suspended under this section may, within 10 days after the receipt of the suspension notice from the department, request a hearing, and, within 20 days after such request has been made, a hearing shall be held by the commission commenced which shall be held pursuant to Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code, and the commission shall have the powers of any agency under such provisions. A decision shall be made within a reasonable time on whether the suspension of the permit shall be terminated or continued until the disposition of the complaint by the court. In determining whether to terminate or continue the suspension of the permit, the commission shall consider whether or not the violation could have a detrimental effect on the resources and whether or not a continued suspension of such a permit is in the best public interest, and shall find whether there is sufficient evidence that a violation has occurred. A failure to make a finding that there is sufficient evidence that a violation has occurred or a finding there is insufficient evidence shall terminate the suspension of the permit under this section. If the permitholder is acquitted of the charges or the charges against him or her have been dismissed, any suspension of the permit is thereby terminated. No complaint shall be filed in a court charging a commercial lobster permitholder with a violation of Section 8251 or 8252 unless evidence supporting the charge has been reviewed by the appropriate county or city prosecuting agency and a criminal complaint has been issued by the agency.

**§8257. Display of permit number on boat.**

The permit number of the person owning or in command of any boat used to take lobster shall be visibly displayed on both sides of the boat in 10-inch black numbers, one inch wide, on a white background.

**§8258. Districts where lobster traps may be used to take spiny lobster.**

Lobster traps may be used to take spiny lobster in Districts 18, 19, 20A, and those portions of District 20 lying on the southerly side of Santa Catalina Island between Southeast Rock and China Point.

**§9010. Lobster traps.**

(a) Subject to Article 5 (commencing with Section 8250) of Chapter 2, spiny lobster may be taken with lobster traps under a lobster permit issued pursuant to Section 8254.

(b) Notwithstanding Sections 8660 and 8665, lobster traps may be used in any area of the state not otherwise closed to the taking of lobsters up to, but not closer than, 75 feet of any private pier, wharf, jetty, breakwater, or dock.

(c) A wire lobster trap shall be built of rectangular wire mesh with inside mesh measurement not less than 1<sup>7</sup>/<sub>8</sub> inches by 3<sup>7</sup>/<sub>8</sub> inches, the 3<sup>7</sup>/<sub>8</sub> inch measurement to be parallel to the floor of the trap. A wire lobster trap shall be fitted with at least one rigid rectangular escape gap with inside measurements not less than 2<sup>3</sup>/<sub>8</sub> inches by 11<sup>1</sup>/<sub>2</sub> inches. The escape gap shall be located parallel to, and within two inches of the floor on any outside wall of, the rearmost chamber of the lobster trap and shall be clearly accessible to the lobsters.

(d) A lobster trap constructed of lath or other material shall have an opening to allow a means of escape along the full length of one side of the rearmost chamber. The escape opening shall be of a spacing of not less than 2<sup>3</sup>/<sub>8</sub> inches, and the spacing shall be located parallel to, and within two inches of, the floor of the lobster trap.

**MARINE AQUARIA**

**FGC Excerpts**

**§82. "Slurp gun".**

"Slurp gun" means a self-contained, hand-held device used to capture fish by rapidly drawing water containing fish into a closed chamber.

**§8140. Right to take fish where taking not prohibited.**

All fish, the taking of which is not prohibited for commercial purposes, and for which a season is not otherwise specified, may be taken at any time for commercial purposes.

**§8596. "Marine aquaria pet trade"; "Drop Net".**

The following definitions govern the construction of this article:

(a) "Marine aquaria pet trade" means any activities connected with collecting, holding, selling, and displaying live aquatic marine life for pet, hobby, curio or display purposes. "Marine aquaria pet trade" does not include activities connected with collecting, holding, selling, or displaying live aquatic marine life by, or for, scientific institutions exempted from permits pursuant to subdivision (e) of Section 2150.

(b) "Drop net" means a small, circular net with weights attached along the perimeter and with a single float attached at the center. A drop net is not more than 48 inches in its greatest diameter.

Size limits for the commercial take of rockfish and California sheep-head are found in Title 14, §150.16 on page 70. Size limits for the commercial take of leopard shark are on page 18.

**§8597. Marine aquaria collector's permit; Species that may be collected.**

(a) It is unlawful for any person to take, possess aboard a boat, or land for marine aquaria pet trade purposes any live organisms identified in subdivision (b), unless that person has a valid marine aquaria collector's

permit that has not been suspended or revoked. At least one person aboard the boat shall have a valid marine aquaria collector permit.

(b) Except as provided in Section 8598.2, and unless otherwise prohibited in this code, or regulations made pursuant thereto, specimens of the following groups or species may be taken, possessed aboard a boat, or landed under a marine aquaria collector's permit:

- (1) Marine plants:
  - (A) Chlorophyta.
  - (B) Phaeophyta.
  - (C) Rhodophyta.
  - (D) Spermatophyta, all species.
- (2) Invertebrates:
  - (A) Polychaeta—worms; all species.
  - (B) Crustacea—shrimp, crabs; all species, except the following:
    - (i) Dungeness crab—*Cancer magister*.
    - (ii) Yellow crab—*Cancer anthonyi*.
    - (iii) Red crab—*Cancer productus*.
    - (iv) Sheep crab—*Loxorhynchus grandis*.
    - (v) Spot prawn—*Pandalus platyceros*.
    - (vi) Ridgeback prawn—*Sicyonia ingentis*.
    - (vii) Golden prawn—*Penaeus californiensis*.
    - (viii) Sand crab—*Emerita analoga*.
    - (ix) Redrock shrimp—*Lysmata californica*.
    - (x) Bay shrimp—*Crangon sp. and Palaemon macrodactylus*.
    - (xi) Ghost shrimp—*Callinassa sp.*
  - (C) *Asteroidea*—Sea stars; all species.
  - (D) *Ophiuroidea*—Brittle stars; all species.
  - (E) *Gastropoda*—snails, limpets, sea slugs; all species, except Kelleter's whelk—*Kelletia kelletii*.
  - (F) *Bivalvia*—clams and mussels; all species.
  - (G) *Polyplacophora*—Chitons; all species.
  - (H) *Cephalopoda*—Octopuses and squids; all species, except two spot octopuses—*Octopus bimaculatus* and *Octopus maculoides*—and market squid—*Loligo opalescens*.
    - (I) *Tunicata*—Sea squirts; all species.
- (3) Vertebrates:
  - (A) *Osteichthyes*—Finfishes; all species, except the following:
    - (i) Rockfish—*Sebastes sp.* larger than six inches total length.
    - (ii) Sheephead—*Semicossyphus pulcher* larger than six inches total length.
    - (iii) Anchovy—*Engraulis mordax*.
    - (iv) Sardine—*Sardinops sagax*.
    - (v) Pacific/chub mackerel—*Scomber japonicus*.
    - (vi) Jack mackerel—*Trachurus symmetricus*.
    - (vii) Queenfish—*Seriphus politus*.
    - (viii) White Croaker—*Genyonemus lineatus*.
    - (ix) Top smelt—*Atherinops affinis*.
    - (x) Grunion—*Leuresthes tenuis*.
    - (xi) Shiner surf perch—*Cymatogaster aggregata*.
    - (xii) Longjawed mudsucker—*Gillichthys mirabilis*.
  - (B) *Chondrichthyes*—sharks, rays, and skates; all species less than 18 inches total length.

(c) The holder of a permit issued pursuant to this section is not required to obtain or possess a kelp harvester's license issued pursuant to Section 6651, a tidal invertebrate permit issued pursuant to Section 8500, or a general trap permit issued pursuant to Article 1 (commencing with Section 9000) of Chapter 4, when taking, possessing, or landing live organisms for marine aquaria pet trade purposes pursuant to subdivision (b), subject to regulations governing the taking of tidal invertebrates. The commission shall adopt regulations to implement this subdivision, and, for that purpose, may incorporate other regulations by reference.

**§8598. Specimens not to be taken or possessed for commercial purposes.**

(a) Notwithstanding Section 8140 or subdivision (b) of Section 8597, specimens of the following groups or species shall not be taken, possessed

aboard a boat, or landed for commercial purposes:

(1) Invertebrates:

- (A) *Phylum Porifera*—all sponges.
- (B) Genus *Pelagia sp.*—jellyfish.
- (C) *Coelenterata*—corals, anemones; all species.
- (D) *Order Gorgonacea*—all gorgonians.
- (E) *Order Pennatulacea*—all species, except *Renilla kollikeri*.
- (F) Feather-duster worm—*Eudistylia polymorpha*.
- (G) Fiddler crab—*Uca crenulata*.
- (H) Umbrella crab—*Cryptolithodes sitchensis*.
- (I) Stalked or goose barnacles—*Pollicipes sp.*
- (J) Giant acorn barnacle—*Balanus nubilus* or *B. aguilae*.
- (K) Owl limpet—*Lottia gigantea*.
- (L) Coffee bean shells—*Trivia sp.*
- (M) Three-winged murex—*Pteropurpura trialata*.
- (N) Vidler's simnia—*Simnia vidleri*.
- (O) Queen tegula—*Tegula regina*.
- (P) *Opisthobranchia* (including nudibranchs)—all subclass

*Opisthobranchia* species except:

- (i) Sea hares—*Aplysia californica* and *Aplysia vaccaria*.
- (ii) *Hermessenda crassicornis*.
- (iii) Lion's mouth—*Melibe leonina*.
- (iv) *Aeolidia papillosa*.
- (v) Spanish shawl—*Flabellina iodinea*.

(2) Vertebrates:

- (A) All shark and ray eggcases.
- (B) Brown smoothhound sharks—*Mustelus hinlei*—that are less than 18 inches in a whole condition or dressed with head and tail removed.

(C) *Family Agonidae*—all poachers.

(D) Wolf-eel—*Anarrhichthys ocellatus*.

(E) Juvenile sheephead—*Semicossyphus pulcher* (under 6 inches).

(F) Garibaldi—*Hypsypops rubicundus*.

(3) Live rocks.

(A) Rocks with living organisms attached, commonly called "live rocks," shall not be taken or possessed except as provided in subparagraph (C).

(B) Rocks shall not be broken to take marine aquaria species, and any rock displaced to access any of those species shall be returned to its original position.

(C) Rocks cultured under the authority of an aquaculture registration may be possessed.

(b) No organisms may be taken, possessed, or landed for marine aquaria pet trade purposes under the terms of a marine aquaria collector's permit in any of the following areas:

(1) On the north side of Santa Catalina Island from a line extending three nautical miles 90° true from Church Rock to a line extending three nautical miles 270° true from the extreme west end of the island.

(2) On the south or "back" side of Santa Catalina Island from a line extending three nautical miles 90° true from Church Rock to a line extending three nautical miles 270° true from the extreme west end of the island.

(3) Marine life refuges, marine reserves, ecological reserves, and state reserves.

#### §8598.2. Prohibited methods of taking organisms.

(a) Marine organisms identified in subdivision (a) of Section 8597 shall not be taken except by the following methods:

- (1) Hook and line.
- (2) Drop net.
- (3) Dip net.
- (4) Trap.
- (5) Hand.
- (6) Slurp gun.
- (7) Spatula.

(b) Chemical anesthetics, poisons, or irritants shall not be used or possessed by any person taking or possessing fish, plants, or other marine organisms for the marine aquaria industry. For the purposes of this

section, chemicals commonly used aboard vessels for insect and rodent control may be possessed if no means of delivering those chemicals, including, but not limited to, squirt bottles, used to target those marine organisms is possessed.

(c) Appliances shall be used so that rocks or other mineral matter, aquatic plants, fish, or other aquatic life not listed in subdivision (b) of Section 8597 are not removed from the bottom or otherwise disturbed.

#### §8598.3. Fee for permit; Ban on simultaneous collection under scientific collector's permit.

(a) The fee for a marine aquaria collector's permit shall be three hundred thirty dollars (\$330).

(b) A person engaged in taking, possessing, or landing marine species under a marine aquaria collector's permit shall not take, possess aboard a boat, or land any species under the authority of a scientific collector's permit issued pursuant to Section 1002, 5515, or 10660 on the same fishing trip.

#### §8598.4. Closure of fishery to protect organisms.

Notwithstanding any other provision of this code, the director may close any portion of the fishery established under this article or any area in which this fishery is conducted, if, upon written finding, the director determines the action is necessary to protect any organisms listed in subdivision (a) of Section 8597 or the environment in which those organisms are located. The director shall reopen a fishery or any fishing areas previously closed pursuant to this section if the director determines that the conditions which necessitated the closure no longer exist.

### NEARSHORE FISHERY

#### Title 14 Excerpts

#### §1.90. Nearshore Fish Stocks, Nearshore Fisheries, and Nearshore Waters Defined.

(a) Under the authority of Section 8587.1 of the Fish and Game Code, Section 8586 of the Fish and Game Code is made inoperative.

(b) "Nearshore fish stocks" means any of the following:

- (1) black rockfish (*Sebastes melanops*),
- (2) black-and-yellow rockfish (*Sebastes chrysomelas*),
- (3) blue rockfish (*Sebastes mystinus*),
- (4) brown rockfish (*Sebastes auriculatus*),
- (5) cabezon (*Scorpaenichthys marmoratus*),
- (6) calico rockfish (*Sebastes dallii*),
- (7) California scorpionfish (sculpin) (*Scorpaena guttata*),
- (8) California sheephead (*Semicossyphus pulcher*),
- (9) China rockfish (*Sebastes nebulosus*),
- (10) copper rockfish (*Sebastes caurinus*),
- (11) gopher rockfish (*Sebastes carnatus*),
- (12) grass rockfish (*Sebastes rastrelliger*),
- (13) greenlings of the genus *Hexagrammos*,
- (14) kelp rockfish (*Sebastes atrovirens*),
- (15) monkeyface eel (*Cebidichthys violaceus*),
- (16) olive rockfish (*Sebastes serranoides*),
- (17) quillback rockfish (*Sebastes maliger*), and
- (18) treefish (*Sebastes serripes*),

(c) "Nearshore fisheries" means the commercial or recreational taking, possession, or landing of any species of nearshore fish stocks.

(d) "Nearshore waters" means ocean waters including around offshore rocks and islands extending from the shore to a depth of 20 fathoms.

(e) "Shallow nearshore rockfish" means a subgroup of rockfishes (genus *Sebastes*) including only black-and-yellow rockfish, China rockfish, gopher rockfish, grass rockfish, and kelp rockfish.

#### §52.04. Regional Management.

Four regional management areas (consistent with the Nearshore FMPs Alternative 5 for Recommended Regional Management) exist off California as follows:

(1) North Coast Region: Nearshore waters between the California-Oregon border and a line extending due west true from a point on the mainland shore at 40 degrees 10 minutes north latitude near Cape Mendocino, Humboldt County,

(2) North-Central Coast Region: Nearshore waters between a line extending due west true from a point on the mainland shore at 40 degrees 10 minutes north latitude near Cape Mendocino, Humboldt County, and a line extending due west true from Point Ano Nuevo, San Mateo County,

(3) South-Central Coast Region: Nearshore waters between a line extending due west true from Ano Nuevo, San Mateo County, and a line extending due west true from Point Conception, Santa Barbara County,

(4) South Coast Region: Nearshore waters between a line extending due west true from Point Conception, Santa Barbara County, and the U.S.-Mexico border.

#### **§52.10. Take of Sheephead, Cabezon and Greenling.**

(a) Total Allowable Catches (TACs) and Allocations. Based on total allowable catches specified for each calendar year, catch may not exceed the following amounts:

(1) California sheephead. The statewide allowable catch of sheephead is 205,500 pounds, allocated as follows:

(A) The commercial fishery is allocated 75,200 pounds.

(B) The recreational fishery is allocated 130,300 pounds.

(2) Cabezon. The total statewide allowable catch of cabezon is 152,100 pounds, allocated as follows:

(A) The commercial fishery is allocated 59,300 pounds.

(B) The recreational fishery is allocated 92,800 pounds.

(3) Greenlings of the genus *Hexagrammos*. The total statewide allowable catch of greenlings is 37,600 pounds, allocated as follows:

(A) The commercial fishery is allocated 3,400 pounds.

(B) The recreational fishery is allocated 34,200 pounds.

(b) Mechanism for Fishery Closures. The department will estimate from the current trends in catch and using the best available scientific information the time at which any commercial or recreational fishery allocation or total allowable catch for sheephead, cabezon, or greenlings specified in subsection (a) will be reached. The department will close the fishery at the time the allocation or total allowable catch is reached or is projected to be reached prior to the end of the calendar year.

(c) The department shall give the public and the commission no less than 10 days notice of any recreational fishery closure pursuant to this Section via a department news release.

(d) The department shall give holders of nearshore fishery permits no less than 10 days notice of any commercial fishery closure pursuant to this Section via a notification letter sent to the permittee's address on file with the department. The department shall give the public and the commission no less than 10 days notice of any commercial fishery closure pursuant to this Section via a department news release.

#### **§150. Nearshore Fishery Restricted Access Program**

(a) Nearshore Fishery Permits issued pursuant to Fish and Game Code Section 8587, are valid only in the regional management area specified in the permit.

(b) The department shall issue a Nearshore Fishery Permit for a regional management area described in Section 52.04, Title 14, CCR to each nearshore fishery permittee who meets the regional qualifying criteria below. A person will receive only one Nearshore Fishery Permit for use in only one regional management area. A person meeting the qualifications for more than one regional management area must make a permanent, irrevocable decision prior to obtaining a Nearshore Fishery Permit for the 2003-2004 permit year to fish in one regional management area. The permit shall not be changed to another regional management area under any circumstances.

(c) Nearshore Fish Stocks Used for Landings Qualification. The following names or market categories and their associated codes as recorded on department fish landing receipts pursuant to Fish and Game Code Section 8043 will be used to determine eligibility: black-and-yellow rockfish (251), cabezon (261), California scorpionfish (260), California

sheephead (145), China rockfish (258), gopher rockfish (263), grass rockfish (652), greenlings of the genus *Hexagrammos* (290), kelp rockfish (659), group nearshore rockfish (973) and group gopher rockfish (962).

(d) Initial Permit Issuance.

(1) North Coast Region. The person has a valid 2002-2003 Nearshore Fishery Permit that has not been suspended or revoked, and has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, and satisfies the landings and participation requirements below:

(A) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, between January 1, 1994 and December 31, 1999, and

(B) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.

(C) landings of nearshore fish stocks used to qualify must have been made at ports located within the North Coast Region as defined in Section 52.04, Title 14, CCR.

(D) Nearshore Fishery Permits issued pursuant to subsection (d)(1) are designated North Coast Region Nearshore Fishery Permits, are transferrable, and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the North Coast Region only.

(2) North-Central Coast Region. The person has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, and has a valid 2002-2003 Nearshore Fishery Permit that has not been suspended or revoked, and satisfies the landing and participation requirements below:

(A) has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in each of 3 calendar years during the period 1994 to 1999, inclusive.

(B) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.

(C) landings of nearshore fish stocks used to qualify must have been made at ports located within the North-Central Coast Region as defined in Section 52.04, Title 14, CCR.

(D) Nearshore Fishery Permits issued pursuant to subsection (d)(2) are designated North-Central Coast Region Nearshore Fishery Permits, are transferable, and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the North-Central Coast Region only.

(3) South-Central Coast Region. The person has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, and has a valid 2002-03 Nearshore Fishery Permit that has not been suspended or revoked, and satisfies the landing and participation requirements below:

(A) has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in each of 3 calendar years during the period 1994 to 1999, inclusive, and which sold for a minimum average ex-vessel price per pound of \$2.00 for landings of nearshore fish stocks landed during the most current three calendar years with landings of nearshore fish stocks during the period 1994 to 1999, inclusive.

(B) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.

(C) landings of nearshore fish stocks used to qualify must have been

made at ports located within the South-Central Coast Region.

(D) Nearshore Fishery Permits issued pursuant to subsection (d)(3) are designated South-Central Coast Region Nearshore Fishery Permits, are transferable, and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the South-Central Coast Region only.

(4) South Coast Region. The person has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, and has a valid 2002-2003 Nearshore Fishery Permit that has not been suspended or revoked, and satisfies the landing and participation requirements below:

(A) has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in each of 3 calendar years during the period 1994 to 1999, inclusive, and which sold for a minimum average ex-vessel price per pound of \$2.00 for landings of nearshore fish stocks landed during the most current three calendar years with landings of nearshore fish stocks during the period 1994 to 1999, inclusive.

(B) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.

(C) landings of nearshore fish stocks used to qualify must have been made at ports located within the South Coast Region as defined in Section 52.04, Title 14, CCR.

(D) Nearshore Fishery Permits issued pursuant to subsection (d)(4) are designated South Coast Region Nearshore Fishery Permits, are transferable, and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the South Coast Region only.

(e) Initial Qualification for 20-year California Commercial Fishermen. During the initial year of the nearshore restricted access program, any person who has been licensed as a California commercial fisherman for at least 20 years at the time of application, and who does not qualify for a permit in (d)(1), (2), (3), or (4) above, and who has participated in the commercial nearshore fishery for at least one of those years as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, upon application shall be issued a Non-Transferable Nearshore Fishery Permit for one regional management area, based on the following minimum landing requirements in subsection (e)(1), (2), (3), or (4) below:

(1) landed at least 200 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the North Coast Region as defined in Section 52.04, Title 14, CCR.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(1) are designated Non-Transferable North Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the North Coast Region only.

(2) landed at least 650 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the North-Central Coast Region as defined in Section 52.04, Title 14, CCR.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(2) are designated Non-Transferable North-Central Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the North-Central Coast Region only.

(3) landed at least 1,050 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the South-Central Coast Region as defined in Section 52.04, Title 14, CCR.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(3) are designated Non-Transferable South-Central Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the South-Central Coast Region only.

(4) landed at least 800 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the South Coast Region as defined in Section 52.04, Title 14, CCR.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(4) are designated Non-Transferable South Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the South Coast Region only.

(5) A non-transferable Nearshore Fishery Permit shall become null and void upon the death of the permit holder.

(f) Capacity Goal. The capacity goal for each nearshore regional management area is as follows: 14 North Coast Region Nearshore Fishery Permits, 9 North-Central Coast Region Nearshore Fishery Permits, 20 South-Central Coast Region Nearshore Fishery Permits, and 18 South Coast Region Nearshore Fishery Permits. The capacity goal for Non-Transferable Nearshore Fishery Permits is zero.

(g) Permit Transfers.

(1) If the combined total of transferable and non-transferable Nearshore Fishery permits in a regional management area is greater than the capacity goal for that regional management area on or after April 1, 2003, the following provisions for permit transfers are in effect:

(A) A Nearshore Fishery Permit issued pursuant to this section may be voluntarily transferred by the permittee, if the transferee (person to whom the permit is to be issued) has never been convicted of a violation of any provision of these regulations or of the Fish and Game Code pertaining to the commercial take of nearshore fish stocks as described in Section 150.01, Title 14, CCR. Until the number of permits in a regional management area equals or falls below the capacity goal for that regional management area, a permit may only be transferred if one additional transferable permit for the same regional management area is surrendered to the department for cancellation at the same time the application for the transfer is submitted to the department.

(B) A Nearshore Fishery Permit may be transferred pursuant to this section to a person only if that person holds a commercial fishing license issued pursuant to Fish and Game Code Section 7850 and submits to the department a notarized letter from each of the permittees described in subdivision (A), that each include a statement identifying the person to whom the Nearshore Fishery Permit is to be transferred and setting forth the conditions of the transfer.

(C) Application for transfer of a Nearshore Fishery Permit, in the form of a notarized letter, shall be submitted to the department by the transferee.

(D) Upon determining that the transferee of the Nearshore Fishery Permit is qualified to receive a Nearshore Fishery Permit and upon payment of all permit and transfer fees, the department shall issue a Nearshore Fishery Permit for that regional management area to the transferee that is valid for the remainder of the then current fishing season. At the time the permit transfer is complete the additional transferable Nearshore Fishery Permit is required to be surrendered by the transferee pursuant to subsection (g)(1)(A). If the transferee holds a Non-Transferable Nearshore Fishery Permit, that permit shall be cancelled.

(E) After the transfer of a person's Nearshore Fishery Permit, the former permit holder may not take, possess, transfer, or sell any nearshore fish stocks as described in Section 150.01, Title 14, CCR, for commercial purposes unless otherwise permitted by law.

(2) Should the combined total of transferable and non-transferable Nearshore Fishery Permits in a regional management area fall below the

capacity goal, the commission may prescribe criteria for the transfer of permits or the issuance of additional permits pursuant to the Administrative Procedure Act following public notice and not less than one public hearing

(3) A transferable Nearshore Fishery Permit issued pursuant to this section may be transferred to the estate of a permittee who has died only for the purpose of transferring the Nearshore Fishery Permit to another person.

(A) Such transfer may be considered if the estate makes application, in the form of a notarized letter, for the transfer within one year of the date of death as listed on the death certificate.

(B) The estate is responsible for any permit renewal fees under subsection (n) of this Section or Section 150.03, Title 14, CCR.

(4) The Nearshore Fishery Permit in the estate of a deceased permittee may be transferred to any person who meets all of the following qualifications:

(A) The person, at that time, holds a commercial fishing license issued pursuant to Fish and Game Code Section 7850.

(B) The person has never been convicted of a violation of any provision of these regulations or of the Fish and Game Code pertaining to the commercial take of nearshore fish stocks.

(C) The transfer of the permit is subject to subsection (g)(1) and (2) above.

(5) A Nearshore Fishery Permit in the estate of a deceased permittee that is transferred to an immediate family member (spouse, child, grandchild, parent, or sibling) or to a partner as described in Fish and Game Code Section 8102 is exempt from the requirements in subsection (g)(1) and (2) above.

(h) Application Deadline for Initial Issuance of Nearshore Fishery Permit. All applications (FG 1326(1/03), incorporated herein by reference) and permit fees for initial issuance of Nearshore Fishery Permits under the restricted access program must be received by the department, or, if mailed, be postmarked on or before June 30, 2003. Applications and permit fees for initial issuance of Nearshore Fishery Permits under the restricted access program received by the department, or, if mailed, postmarked from July 1 through July 31, 2003 will be assessed a \$50 late fee. Applications and permit fees for the initial issuance of Nearshore Fishery Permits under the restricted access program postmarked or received after July 31, 2003 shall be returned to the applicant unissued.

(i) Nearshore Fishery Permit Renewal Requirements. Notwithstanding Fish and Game Code Section 8587, after April 1, 2004, Nearshore Fishery Permits for a regional management area will be issued annually by the department only to those persons who have held a valid Nearshore Fishery Permit for that regional management area in the immediately preceding permit year.

(j) Application Deadline for Nearshore Fishery Permit Renewal. All applications (FG 1326(01/05), incorporated herein by reference) and permit fees for renewal of Nearshore Fishery Permits must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Applications and permit fees for renewal of Nearshore Fishery Permits received by the department, or, if mailed, postmarked from May 1 through May 31 will be assessed a \$50 late fee. Applications and permit fees postmarked or presented after May 31 will not be considered and the Nearshore Fishery Permit applied for shall be cancelled and not available for renewal in subsequent years.

(k) Presence of Permit Holder on Vessel. At least one Nearshore Fishery Permit holder shall be on board at all times when taking, possessing aboard a boat, or landing nearshore fish stocks as described in Section 150.01, Title 14, CCR. If a support vessel is used, a permit holder shall be on each vessel when taking nearshore fish stocks.

(l) Gear Authorized for Use. Only dip nets (as defined in Section 1.42, Title 14, CCR), hook-and-line gear consistent with restrictions of Section 150.17, Title 14, CCR, and gear authorized for use under a gear endorsement issued pursuant to Section 150.03, Title 14, CCR, shall be used to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR.

(m) Appeals.

(1) Any applicant who is denied initial issuance of a Nearshore Fishery Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31, 2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(2) Any applicant who is denied renewal of a Nearshore Fishery Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, not later than March 31 following the permit year in which the applicant last held a valid Nearshore Fishery Permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(3) Any applicant who is denied transfer of a Nearshore Fishery Permit may appeal to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(n) Fees. Notwithstanding Fish and Game Code Section 8587, the fees for a Nearshore Fishery Permit under the restricted access program shall be as follows:

(1) The department shall charge an annual fee for each transferable Nearshore Fishery Permit of five hundred dollars (\$507.50).

(2) The department shall charge an annual fee for each Non-Transferable Nearshore Fishery Permit of five hundred dollars (\$507.50).

(3) The department shall charge a non-refundable fee of five hundred dollars (\$500) for each permit transfer. If more than one permit is required for the transfer, a total of five hundred (\$500) shall be charged.

(o) Revocation of Permits. Any permit may be suspended, revoked, or cancelled by the commission upon conviction of a violation of any provision of these regulations or Fish and Game Code pertaining to the commercial take of nearshore fish stocks as described in Section 150.01, Title 14, CCR, or violation of the terms or conditions of the permit by the holder thereof, his agents, servants, employees or those acting under his direction and control.

#### **§150.01. Nearshore Fishery Permit Required.**

Notwithstanding Section 8587 of the Fish and Game Code, a nearshore fishing permit is required only for the commercial take of the following species of nearshore fish stocks: black-and-yellow rockfish, gopher rockfish, kelp rockfish, California scorpionfish, greenlings of the genus Hexagrammos, China rockfish, grass rockfish, California sheephead, and cabezon.

#### **§150.03. Nearshore Fishery Gear Endorsement Program.**

Nearshore Fishery Gear Endorsement holders are subject to the provisions of §§180, 180.2, 180.4, 180.5, Title 14, of the CCR and FGC §§9000, 9000.5, 9001, 9001.7-9008.

(a) The following regulations govern the qualification, issuance and appeals process of a gear endorsement program for the commercial take of nearshore fish stocks.

(b) Nearshore fish stocks are those listed in Section 150.01, Title 14, CCR.

(c) Qualifications for Gear Endorsement. A transferable gear endorsement shall be issued upon application only to a person who has a valid 2003-2004 transferable Nearshore Fishery Permit, issued pursuant to Section 150, Title 14, CCR, for a specific regional management area as defined in Section 52.04, Title 14, CCR. A non-transferable gear endorsement shall be issued upon application only to a person who has a valid 2003-2004 non-transferable Nearshore Fishery Permit, issued pursuant to Section 150, Title 14, CCR, for a specific regional management area as defined in Section 52.04, Title 14, CCR. The following qualifying criteria shall be used to determine eligibility for either a transferable or non-transferable trap endorsement:

(1) North Coast Region Trap Endorsement. A trap endorsement allows

the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01, Title 14, CCR, in addition to gear authorized under Section 150(l), Title 14, CCR. A trap endorsement shall be attached to the North Coast Region Nearshore Fishery Permit issued to a person who has satisfied the following requirements:

(A) has a valid 2002-2003 general trap permit that has not been suspended or revoked, and

(B) has landed at least 1,000 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, between January 1, 1994 and October 20, 2000 that were taken with trap gear.

(C) landings of nearshore fish stocks as described in Section 150.01, Title 14, CCR, used to qualify must have been made at ports located within the North Coast Region as defined in Section 52.04, Title 14, CCR, as documented by department landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.

(2) North-Central Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01, Title 14, CCR, in addition to gear authorized under Section 150(l), Title 14, CCR. A trap endorsement shall be attached to the North-Central Coast Region Nearshore Fishery Permit issued to a person who has satisfied the following requirements:

(A) has a valid 2002-2003 general trap permit that has not been suspended or revoked, and

(B) has landed at least 1,000 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, between January 1, 1994 and October 20, 2000 that were taken with trap gear.

(C) landings of nearshore fish stocks as described in Section 150.01, Title 14, CCR, used to qualify must have been made at ports located within the North-Central Coast Region as defined in Section 52.04, Title 14, CCR, as documented by department landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.

(3) South-Central Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01, Title 14, CCR, in addition to gear authorized under Section 150(l), Title 14, CCR. A trap endorsement shall be attached to the South-Central Coast Region Nearshore Fishery Permit issued to a person who has satisfied the requirements of either (A), or (B) and (C) below:

(A) has a valid 2002-2003 finfish trap permit that has not been suspended or revoked, or

(B) has a valid 2002-2003 general trap permit that has not been suspended or revoked, and has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in each of 3 calendar years during the period January 1, 1994 through October 20, 2000 that were taken with trap gear.

(C) landings of nearshore fish stocks as described in Section 150.01, Title 14, CCR, used to qualify must have been made at ports located within the South-Central Coast Region as defined in Section 52.04, Title 14, CCR, as documented by department landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.

(4) South Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01, Title 14, CCR, in addition to gear authorized under Section 150(l), Title 14, CCR. A trap endorsement shall be attached to the South Coast Region Nearshore Fishery Permit issued to a person who has a valid 2002-2003 finfish trap permit that has not been suspended or revoked.

(5) A non-transferable trap endorsement issued under this Section shall become null and void upon the death of the permit holder.

(d) Transfer of Nearshore Fishery Permit Gear Endorsements. The transfer of a Nearshore Fishery Permit gear endorsement is subject to the provisions of Section 150(g), Title 14, CCR. Only one Nearshore Fishery Permit gear endorsement is required to transfer the gear endorsement to a new permittee.

(e) Application Deadline for Initial Issuance of Nearshore Fishery Per-

mit Gear Endorsements. All applications (FG 1327(1/03), incorporated herein by reference) and permit fees for initial issuance of Nearshore Fishery Permit gear endorsements under the restricted access program must be received by the department, or, if mailed, be postmarked on or before June 30, 2003. Applications and permit fees for initial issuance of Nearshore Fishery Permit gear endorsements under the restricted access program received by the department, or, if mailed, postmarked from July 1 through July 31, 2003 will be assessed a \$50 late fee. Applications and permit fees for the initial issuance of Nearshore Fishery Permit gear endorsements under the restricted access program postmarked or received after July 31, 2003 shall be returned to the applicant unissued.

(f) Nearshore Fishery Permit Gear Endorsement Renewal Requirements. After April 1, 2004, notwithstanding Fish and Game Code Section 8587, Nearshore Fishery Permit gear endorsements for a regional management area will be renewed annually by the department only to a person who has held a valid Nearshore Fishery Permit gear endorsement for that regional management area in the immediately preceding permit year.

(g) Application Deadline for Nearshore Fishery Permit Gear Endorsement Renewal. All applications (FG1326 (1/05), incorporated herein by reference) and permit fees for renewal of Nearshore Fishery Permit gear endorsements must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Applications and permit fees for renewal of Nearshore Fishery Permit gear endorsements received by the department, or, if mailed, postmarked from May 1 through May 31 will be assessed a \$50 late fee. Applications and permit fees for Nearshore Fishery Permit gear endorsements postmarked or presented after May 31 will not be considered and the Nearshore Fishery permit gear endorsement applied for shall be cancelled and not available for renewal in subsequent years.

(h) Appeals.

(1) Any applicant who is denied initial issuance of a Nearshore Fishery Permit gear endorsement for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31, 2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(2) Any applicant who is denied renewal of a Nearshore Fishery Permit gear endorsement for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, not later than March 31 following the permit year in which the applicant last held a valid Nearshore Fishery Permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(3) Any applicant who is denied transfer of a Nearshore Fishery Permit gear endorsement may appeal to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(i) Fees. Notwithstanding Fish and Game Code Section 8587, the fees for a Nearshore Fishery Permit gear endorsement under the restricted access program shall be as follows:

(1) The department shall charge an annual fee for each Nearshore Fishery Permit gear endorsement of seventy-five dollars (\$76.25).

(2) the department shall charge a non-refundable fee of seventy-five dollars (\$75) for each gear endorsement transfer.

(j) Revocation of Nearshore Fishery Permit Gear Endorsement. Any Nearshore Fishery Permit gear endorsement may be suspended, revoked, or cancelled by the commission upon conviction of a violation of any provision of these regulations or Fish and Game Code pertaining to the commercial take of nearshore fish stocks as described in Section 150.01, Title 14, CCR, or violation of the terms or conditions of the permit by the holder thereof, his agents, servants, employees or those acting under his direction and control.

(k) Notwithstanding Fish and Game Code Section 9001.5, a finfish

trap permit is not required when taking nearshore fish stocks under the authority of a Nearshore Fishery Permit and trap endorsement issued pursuant to sections 150 and 150.03, Title 14, CCR. A general trap permit, issued pursuant to Fish and Game Code Section 9001, is required when taking nearshore fish stocks under the authority of a Nearshore Fishery Permit and trap endorsement issued pursuant to sections 150 and 150.03, Title 14, CCR.

**§150.04. Control Date for Gear Endorsement Program for Other Nearshore Species.**

(a) A control date of October 20, 2000 is established for the purpose of developing and implementing a gear endorsement program for the commercial nearshore fishery for nearshore fish stocks not covered under other nearshore control dates or nearshore restricted access programs established in Section 150, Title 14, CCR, or Section 150.03, Title 14, CCR. Species subject to this control date include only black rockfish, blue rockfish, brown rockfish, calico rockfish, copper rockfish, monkeyface eel, olive rockfish, quillback rockfish and treefish.

(b) In addition to any other requirements the Commission may adopt, in order to be considered for inclusion in a future gear endorsement program described in subsection (a), a person must have made at least one landing of the nearshore species described in subsection (a). This landing must be in his/her own name and commercial fishing license identification number on or before the control date in subsection (a) using a specified gear type (traps and/or hook and line and/or nets) as documented by a fish landing receipt prepared pursuant to Fish and Game Code Section 8043 and submitted to the department pursuant to Fish and Game Code Section 8046.

(c) This section does not apply to those nearshore species for which a Nearshore Fishery Permit is required pursuant to Section 150.01.

**§150.05. Nearshore Fishery Bycatch Permit Program.**

(a) A Nearshore Fishery Bycatch Permit authorizing the take, possession aboard a vessel, or landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, and in the manner and amount described in subsections (b) and (d) below may be issued to a person who meets the following conditions:

(1) has a valid 2002-2003 Nearshore Fishery Permit that has not been suspended or revoked.

(2) The person is not eligible for a 2003-2004 Nearshore Fishery Permit, or the person is eligible for a 2003-2004 Nearshore Fishery Permit based on landings made with gear not authorized under Section 150 or 150.03, Title 14, CCR, and chooses not to convert to the gear authorized pursuant to Section 150, 150.03 or 150.17, Title 14, CCR.

(b) Gear Authorized for Use. Only trawl or entangling nets shall be used to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, under a Nearshore Fishery Bycatch Permit issued pursuant to this section.

(c) Nearshore Fishery Bycatch Permits are non-transferable and the permit becomes null and void upon the death of the permit holder.

(d) Trip Limits.

(1) Nearshore Fishery Bycatch Permit holders are subject to all state and federal cumulative trip limits pursuant to sections 150.16 and 189, Title 14, CCR. Pursuant to sections 150.06 and 189, Title 14, CCR, no retention of nearshore fish stocks is allowed when the directed nearshore fishery is closed.

(2) Notwithstanding, Section 120.3, Title 14, CCR, and Fish and Game Code Section 8496, a person holding a Nearshore Fishery Bycatch Permit may take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, under the following trip limits:

(A) North Coast Region. Zero (0) pounds of nearshore fish stocks may be taken per trip.

(B) North-Central Coast Region. Zero (0) pounds of nearshore fish stocks may be taken per trip.

(C) South-Central Coast Region. Twenty-five (25) pounds of nearshore fish stocks may be taken per trip.

(D) South Coast Region. Fifty (50) pounds of nearshore fish stocks may be taken per trip.

(e) Application Deadline for Initial Issuance of Nearshore Fishery Bycatch Permits. All applications (FG 1328(1/03), incorporated herein by reference) and permit fees for initial issuance of Nearshore Fishery Bycatch Permits must be received by the department, or, if mailed, be postmarked on or before June 30, 2003. Applications and permit fees for initial issuance of Nearshore Fishery Bycatch Permits under the restricted access program received by the department, or, if mailed, postmarked from July 1 through July 31, 2003 will be assessed a \$50 late fee. Applications and permit fees for the initial issuance of Nearshore Fishery Bycatch Permits under the restricted access program postmarked or received after July 31, 2003 shall be returned to the applicant unissued.

(f) Nearshore Fishery Bycatch Permit Renewal Requirements. Notwithstanding Fish and Game Code Section 8587, after April 1, 2004, Nearshore Fishery Bycatch Permits will be renewed annually by the department only to a person who has held a valid Nearshore Fishery Bycatch Permit in the immediately preceding permit year.

(g) Application Deadline for Nearshore Fishery Bycatch Permit Renewal. All applications (FG 1328(10/04), incorporated herein by reference) and permit fees for renewal of Nearshore Fishery Bycatch Permits must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Applications and permit fees for renewal of Nearshore Fishery Bycatch Permits received by the department, or, if mailed, postmarked from May 1 through May 31 will be assessed a \$50 late fee. Applications and permit fees postmarked or presented after May 31 will not be considered and the Nearshore Fishery Bycatch Permit applied for shall be cancelled and not available for renewal in subsequent years.

(h) Appeals.

(1) Any applicant who is denied initial issuance of a Nearshore Fishery Bycatch Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31, 2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(2) Any applicant who is denied renewal of a Nearshore Fishery Bycatch Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, not later than March 31 following the permit year in which the applicant last held a valid Nearshore Fishery Permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(i) Fees. The department shall charge an annual fee for each Nearshore Fishery Bycatch Permit of two hundred dollars (\$203).

(j) Revocation of Nearshore Fishery Bycatch Permit. Any permit may be suspended, revoked, or cancelled by the commission upon conviction of a violation of any provision of these regulations or Fish and Game Code pertaining to the commercial take of nearshore fish stocks as described in Section 150.01, Title 14, CCR, or violation of the terms or conditions of the permit by the holder thereof, his agents, servants, employees or those acting under his direction and control.

See page 50 for a map of Cowcod Conservation Area.

**§150.06. Management Areas Defined; Closure Periods Defined.**

(a) Cowcod closure areas means both Area 1 and Area 2: Area 1, also termed the western cowcod conservation area adopted as federal groundfish regulations, is an area south of Point Conception bound by straight lines connecting the following points in the order listed:

- 33°50' N. lat., 119°30' W. long.;
- 33°50' N. lat., 118°50' W. long.;
- 32°20' N. lat., 118°50' W. long.;
- 32°20' N. lat., 119°37' W. long.;
- 33°00' N. lat., 119°37' W. long.;
- 33°00' N. lat., 119°53' W. long.;
- 33°33' N. lat., 119°53' W. long.;
- 33°33' N. lat., 119°30' W. long.;
- 33°50' N. lat., 119°30' W. long.;

The transit corridor through the cowcod closure Area 1 is bounded on the north by the latitude line at 33°00' 30" N. lat., and on the south by the latitude line at 32°59' 30" N. lat., and Area 2, also termed the eastern cowcod conservation area adopted as federal groundfish regulations, that is a smaller area west of San Diego bound by straight lines connecting the following points in the order listed:

- 32°42' N. lat., 118°02' W. long.;
- 32°42' N. lat., 117°50' W. long.;
- 32°36' 42" N. lat., 117°50' W. long.;
- 32°30' N. lat., 117°53' 30" W. long.;
- 32°30' N. lat., 118°02' W. long.;
- 32°42' N. lat., 118°02' W. long.;

(b) Seasonal closure periods and in-season closures enacted due to quota attainment for commercial rockfish, a subgroup of rockfish, lingcod or California scorpionfish noticed in the Federal Register by the National Marine Fisheries Service shall apply in state waters within the geographic boundary areas defined in Title 50, Code of Federal Regulations (CFR), Parts 600 and 660. See also Section 189, Title 14, California Code of Regulations for additional explanation regarding fishing for federal groundfish in state waters.

(c) Seasonal closures for commercial sheephead, cabezon, and greenlings of the genus *Hexagrammos*:

(1) For ocean waters between 42°00' N. lat. (the Oregon/California border) and 40°10' N. lat. (near Cape Mendocino, Humboldt County), closed time periods for sheephead, cabezon, and greenlings of the genus *Hexagrammos* shall be defined as the time periods closed to commercial take of shallow and deeper nearshore rockfishes for ocean waters between 40°10' N. lat. (near Cape Mendocino) and 34°27' N. lat. (at Point Conception, Santa Barbara County), noticed in the Federal Register by the National Marine Fisheries Service, or defined in Title 50, Code of Federal Regulations (CFR), Parts 600 and 660. Time periods closed to the commercial take of shallow or deeper nearshore rockfish fisheries enacted in-season due to quota attainment do not apply.

(2) For ocean waters between 40°10' N. lat. (near Cape Mendocino) and 34°27' N. lat. (at Point Conception, Santa Barbara County), closed time periods for sheephead, cabezon, and greenlings of the genus *Hexagrammos* shall be defined as the time periods closed to commercial take of shallow and deeper nearshore rockfishes in this area noticed in the Federal Register by the National Marine Fisheries Service, or defined in Title 50, Code of Federal Regulations (CFR), Parts 600 and 660. Time periods closed to the commercial take of shallow or deeper nearshore rockfish fisheries enacted in-season due to quota attainment do not apply.

(3) For ocean waters between 34°27' N. lat. (at Point Conception, Santa Barbara County) and the U.S./Mexico border, closed time periods for sheephead, cabezon, and greenlings of the genus *Hexagrammos* shall be defined as the time periods closed to commercial take of shallow and deeper nearshore rockfishes in this area noticed in the Federal Register by the National Marine Fisheries Service, or defined in Title 50, Code of Federal Regulations (CFR), Parts 600 and 660. Time periods closed to the commercial take of shallow or deeper nearshore rockfish fisheries enacted in-season due to quota attainment do not apply.

**§150.16. Commercial Take of Nearshore Fishes.**

(a) Notwithstanding Section 8588(b) of the Fish and Game Code, minimum size limits (total length) are as follows:

- (1) black-and-yellow rockfish (*Sebastes chrysomelas*)10 in.
- (2) cabezon (*Scorpaenichthys marmoratus*)15 in.
- (3) California scorpionfish or sculpin (*Scorpaena guttata*)10 in.
- (4) California sheephead (*Semicossyphus pulcher*)13 in.
- (5) China rockfish (*Sebastes nebulosus*)12 in.
- (6) gopher rockfish (*Sebastes carnatus*)10 in.
- (7) grass rockfish (*Sebastes rastrelliger*)12 in.
- (8) greenlings of the genus *Hexagrammos* (*Hexagrammos spp.*)12 in.
- (9) kelp rockfish (*Sebastes atrovirens*)10 in.

(b) Species of nearshore fish stocks as defined in Section 1.90, Title 14, CCR, must be sorted by species prior to weighing and the weight reported separately on the Fish and Game receipt.

(c) Any nearshore fish listed under this section that are taken in a nearshore fishery shall be measured immediately upon being brought aboard the vessel and released immediately if not in compliance with the size limits specified.

(d) Regulations adopted to modify the minimum size limits or to specify maximum size limits shall be based on the best available scientific information and adopted pursuant to the Administrative Procedure Act following public notice and not less than one public hearing.

(e) Cumulative trip limits for sheephead, cabezon, greenlings of the genus *Hexagrammos*, California scorpionfish, and subgroups of rockfish.

(1) A cumulative trip limit is the total number of pounds of a species or a species group that may be taken and retained, possessed, or landed by an individual commercial licensee in a cumulative trip limit period without a limit on the number of landings or trips.

(2) Cumulative trip limit periods start at 0001 hours local time, end at 2400 hours local time, and are in two month periods as follows:

- (A) January 1 through the last day of February,
- (B) March 1 - April 30,
- (C) May 1 - June 30,
- (D) July 1 - August 31,
- (E) September 1 - October 31,
- (F) November 1 - December 31.

(3) Landings toward a cumulative trip limit value for a defined cumulative trip limit period provided in this subsection are summed by an individual's California commercial license number listed on fish receipts submitted to the department pursuant to Section 8043, Fish and Game Code.

(4) Any person landing species for which there is a cumulative trip limit established pursuant to this Section shall keep in their immediate possession copies of any and all reports of landings required by state laws or regulations throughout the cumulative limit period during which a landing occurred and for 15 days thereafter.

(5) Cumulative trip limit values noticed in the Federal Register by the National Marine Fisheries Service for the cumulative trip limit periods for shallow nearshore rockfish, deeper nearshore rockfish, and California scorpionfish apply to each individual California commercial licensee in addition to the federally-defined vessel-based limits. Landings are summed by an individual's California commercial license number listed on fish receipts submitted to the department pursuant to Section 8043, Fish and Game Code.

(6) Cumulative trip limits for sheephead, cabezon and greenlings.

(A) The cumulative trip limit per individual per two-month limit period when fishing is allowed pursuant to Section 150.06, Title 14, CCR, is as follows:

	<i>Sheephead</i>	<i>Cabezon</i>	<i>Greenlings</i>
January - February	2,000 pounds	300 pounds	25 pounds
March - April	2,000 pounds	100 pounds	25 pounds
May - June	2,400 pounds	250 pounds	25 pounds
July - August	2,400 pounds	150 pounds	25 pounds
September - October	2,400 pounds	900 pounds	25 pounds
November - December	2,400 pounds	100 pounds	25 pounds

(B) The department will evaluate year-to-date catch levels against total allowable catch limits defined in Section 52.10. Based on these data, when the department determines that cumulative trip limits defined in the allowable catches through the open season to the extent possible and prevent early attainment of the annual total allowable commercial catch, the cumulative trip limits defined in this Section may become inoperative and may be replaced with alternative limits as determined by the department. The department may perform these in-season analyses between May and September of each year; and provide notification of changes by October 15 of each year, as described in subsection (e)(6)(C).

(C) The department shall give holders of nearshore fishery permits no less than 10 days notice of any cumulative trip limit change pursuant to this Section via a notification letter sent to the permittee's address on file with the department.

(D) When optimum yields, allocations, total allowable catches or other catch limits defined in Section 52.10 are reached, and action to close the fishery is taken pursuant to Section 52.10 subsection (b), cumulative trip limits defined in this Section become inoperative.

(f) All other trip limits (including daily, weekly and cumulative trip limits) established for commercial rockfish, a subgroup of rockfish, or California scorpionfish noticed in the Federal Register by the National Marine Fisheries Service shall apply in state waters within the geographic boundary areas defined in Title 50, Code of Federal Regulations (CFR) Parts 600 and 660. See also Section 189, Title 14, California Code of Regulations for additional requirements regarding fishing for federal groundfish in state waters.

See restrictions for Districts 17, 18, and 19 under fishing lines on page 28 and for dip nets on page 27.

#### **§150.17. Limitations on Number of Hooks and Area.**

Excepting the provisions of Fish and Game Code subsection 9027.5(c), it is unlawful to use more than 150 hooks on a vessel, or to use more than 15 hooks per line, to take nearshore fish stocks for commercial purposes in ocean waters within one mile of shore within Fish and Game Districts 6, 7, and 10, or in ocean waters within one mile of the mainland shore in Fish and Game Districts 17, 18, and 19.

#### **FGC Excerpts**

##### **§8587.1. Adoption of regulations.**

(a) The commission may adopt regulations as it determines necessary, based on the advice and recommendations of the department, to regulate nearshore fish stocks and fisheries. Regulations adopted by the commission pursuant to this section may include, but are not limited to, requiring submittal of landing and permit information, including logbooks; establishing a restricted access program; establishing permit fees; and establishing limitations on the fishery based on time, area, type, and amount of gear, and amount of catch, species, and size of fish.

(b) Regulations adopted by the commission pursuant to this section may make inoperative any fishery management statute relevant to the nearshore fishery. Any regulation adopted by the commission pursuant to this subdivision shall specify the particular statute to be made inoperative.

(c) The circumstances, restrictions, and requirements of Section 219 do not apply to regulations adopted pursuant to this section.

(d) Any regulations adopted pursuant to this section shall be adopted following consultation with fishery participants and other interested persons consistent with Section 7059.

##### **§8589.5. Suspension of permits.**

The commission shall temporarily suspend and may permanently revoke the nearshore fishing permit of any person convicted of a violation of this article. In addition to, or in lieu of, a license or permit suspension or revocation, the commission may adopt and apply a schedule of fines for convictions of violations of this article.

## **OCEAN ENHANCEMENT**

### **FGC Excerpts**

#### **§6596. Ocean fishing enhancement stamps.**

(a) In addition to a valid California sport fishing license and any other applicable license stamp issued pursuant to this code, a person taking fish from ocean waters south of a line extending due west from Point Arguello for purposes other than for profit shall have a valid sport fishing ocean enhancement stamp permanently affixed to his or her fishing license. A sport fishing ocean enhancement stamp shall be issued upon payment of a base fee of three dollars and fifty cents (\$3.50). A sport fishing license issued pursuant to paragraph (4) or (5) of subdivision (a) of Section 7149 is not subject to this subdivision.

(b) In addition to a valid California commercial passenger fishing boat license issued pursuant to Section 7920, the owner of any boat or vessel who, for profit, permits any person to fish therefrom, south of a line extending due west from Point Arguello, shall have a valid commercial fishing ocean enhancement stamp issued for that vessel that has not been suspended or revoked.

(c) Any person who takes, possesses aboard a boat, or lands any white sea bass for commercial purposes, south of a line extending due west from Point Arguello, shall have a valid commercial fishing ocean enhancement stamp issued to that person that has not been suspended or revoked.

(d) The base fee for a commercial fishing ocean enhancement stamp is thirty-five dollars (\$35).

(e) This section does not apply to licenses, permits, reservations, tags, or other entitlements issued through the Automated License Data System.

(f) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

## **PACIFIC MACKEREL**

For information on Coastal Pelagic Species see page 38.

## **PINK SHRIMP**

Pink shrimp permit holders are also subject to the provisions of §§189, 8841, Title 14, of the CCR.

### **Title 14 Excerpts**

#### **120. Prawn or Shrimp Trawling.**

The following are the regulations under which permits to use or possess trawls for the taking of shrimp or prawns in ocean waters pursuant to section 8842 are to be granted:

(a) Qualifications of Permittee. The applicant must be the operator of a currently registered commercial fishing vessel.

(b) Southern Pink Shrimp Trawl Permit. On and after April 1, 2001, any person using a trawl net to take, possess aboard a boat, or land pink shrimp for commercial purposes in ocean waters south of a line drawn due west of Point Conception shall have a southern pink shrimp trawl permit that has not been suspended or revoked.

(c) Cost of Permit. See subsection 699(b) of these regulations for the fee for this permit. (NOTE: This fee shall be charged effective April 1, 1992.)

(d) Permit Areas. The taking of pink shrimp north of a line drawn due west of Point Conception shall be subject to this section and Section 120.01, Title 14, CCR. Trawling for shrimp or prawns shall be permitted only in those waters of Fish and Game Districts 6, 7, 10, 17, 18, and 19, lying not less than three (3) nautical miles from the nearest point of land on the mainland shore, all offshore islands and the boundary line of District 19A, except that in waters lying between a line extending due west from False Cape and a line extending due west from Pigeon Point, trawl-

ing is allowed not less than two (2) nautical miles from the nearest point of land on the mainland shore. However, no trawling shall be conducted in the cowcod closure areas defined in Section 150.06, Title 14, CCR.

(e) Season. Pink shrimp may be taken April 1 through October 31. The taking of golden, spot and ridgeback prawns is provided for in Section 120.3, Title 14, CCR.

(f) Gear Specifications.

(1) The net to be used for the capture of shrimp or prawns shall be an otter trawl or a beam trawl net.

(2) The mesh of any webbing used on or with the beam or otter trawl shall not be less than 1 3/8 inches measured inside the knots.

(3) An approved Bycatch Reduction Device (BRD) shall be used on all trawl nets used in the commercial pink shrimp trawl fishery and is described as one of the following:

(A) The Nordmore Grate. The grate consists of a series of rigid or semi-rigid vertical bars that form a panel which guides finfish out of an escape hole located in the top of the net. The device may include a funnel used to concentrate catch near the bottom of the panel to facilitate sorting but is not a required component. An approved Nordmore Grate must meet the following criteria:

1. The rigid or semi-rigid panel must completely cover some portion of the net in diagonal cross-section.

2. None of the openings between the vertical bars of the panel may exceed 2 inches.

3. The escape hole, when spread open, must expose a hole at least 100 square inches in surface area, which is the equivalent to removing 10-12 meshes in a straight line.

4. The escape hole must be forward of the panel and the farthest back point must end within four meshes of the point at which the rigid or semi-rigid panel connects to the main net at its farthest back point.

(B) The Soft-Panel Excluder. This device uses a mesh panel to guide fish out of an escape hole located in the top of the net. An approved soft-panel BRD must satisfy the following criteria:

1. The panel meshes must be constructed of net material with individual meshes no larger than 6 inches (stretch measure).

2. The panel must completely cover some portion of the net in diagonal cross-section and partial panels are not allowed.

3. The escape hole must, when spread open, expose a hole at least 100 square inches in surface area, which is equivalent to cutting 10-12 meshes in a straight line.

4. The escape hole must be positioned forward of the panel and end within four meshes of the point at which the panel connects to the main net at its farthest back point.

(C) The Fisheye Excluder. This device functions as a simple forward facing escape hatch that is maintained by a rigid frame. An approved fisheye BRD must meet the following criteria:

1. The escape hole must be forward facing so that finfish can swim towards the mouth of the net to exit through the fisheye.

2. The device must be placed on the top of the codend, no further forward than 84 codend meshes, counted from the pursing rings.

3. The escape hole must be no less than 6 inches in height and no less than 10 inches in width.

(4) A revocable experimental BRD permit may be issued by the Department's Marine Region Manager and used in lieu of an approved BRD under the following terms and conditions:

(A) The experimental BRD meets minimum design criteria for approved BRDs as determined by the Marine Region Manager.

(B) The permitted vessel carries a Department-approved observer coverage during all times that the experimental BRD is used in lieu of an approved BRD to harvest pink shrimp.

(C) The experimental BRD permit is valid for the duration of the impending or current pink shrimp season unless revoked.

(5) Bycatch reduction devices shall not be modified in any way that interferes with their ability to allow fish to escape from the trawl, except for the purpose of testing the BRD to measure shrimp loss. Authorized testing of BRDs may be conducted as follows:

(A) All testing must occur between 3:00 p.m. and 6:00 p.m. Pacific Time.

(B) For vessels fishing two nets simultaneously (double-rigged boats), only one net may contain a disabled BRD (approved or experimental).

(C) For vessels fishing only one net, the BRD may be disabled only between 3:00 p.m. and 6:00 p.m. Pacific Time.

(g) Limitations of Gear.

(1) Nets used for the taking of shrimp or prawns under this regulation may be possessed on a boat in a permit area only when the shrimp or prawn trawling season is open in that area, except as provided in (6) below and except that for a period of seven (7) days following the close of the season, shrimp or prawn nets may be possessed on a boat for the purpose of cleaning, drying, or maintaining such nets, provided that the boat remains in port during the time the net(s) is aboard. No shrimp trawl net may be possessed on board a vessel in the commercial pink shrimp fishery that does not include an excluder device. All bycatch reduction devices and codends used for trawl fishing for pink shrimp must be readily accessible and made available for inspection at the request of a department official.

(2) When any nets possessed under the terms of these regulations are in possession on any permittee's vessel, no other fishing nets may be possessed on that vessel.

(3) No web, the meshes of which are less than that prescribed in these regulations, may be possessed on any vessel which is operating under the provisions of a shrimp or prawn permit.

(4) All fishing gear used under the provisions of this permit is subject to inspection and approval by the Department of Fish and Game at any time.

(5) On request, any authorized representative of the Department of Fish and Game shall be permitted to travel on the permittee's boat to observe shrimp or prawn trawling operations.

(6) The department may issue revocable nontransferable permits to shrimp permittees for purpose of transporting shrimp or prawn nets in closed permit areas. The permit must include such information as the name of the vessel that will transport the net and a termination date that does not extend beyond the end of the season in progress. The permit shall be carried aboard the vessel upon which the net is being transported.

(7) No shrimp trawl nets may be removed from the vessel participating in the pink shrimp trawl fishery prior to the offloading of pink shrimp.

(h) Incidentally Caught Fish. Not more than 1,500 pounds, multiplied by the number of days of the fishing trip, of fish other than Pacific whiting, shortbelly rockfish, or arrowtooth flounder caught incidentally with shrimp or prawns may be possessed on any boat operating under a permit as provided in these regulations, except salmon may be taken and possessed subject to sections 8210.2 to 8226, and 8230 to 8237, inclusive, of the Fish and Game Code. Spot prawns shall not be possessed or landed as incidental catch in the pink shrimp fishery.

(i) Maximum Count per Pound. It is illegal for any vessel operating under a southern pink shrimp permit or a permit as provided in Section 120.01, Title 14, CCR, to land pink shrimp having a count greater than 160 shrimp per pound.

(j) Records. Pursuant to section 190 of these regulations, each permittee shall complete and submit an accurate record of his fishing activities on a form (Shrimp/Prawn Trawl Log, DFG 120 (10/ 89), see Appendix A) provided by the department.

(k) Conditions of Permit. The provisions of the Fish and Game Code of California relating to commercial fishing except as modified by the provisions of this permit shall be a condition of all permits to be fully performed by the holders thereof, their agents, servants, employees, or those acting under their direction and control.

(l) Revocation of Permits. All permits may be revoked and canceled by the Fish and Game Commission without notice, upon the breach or violation of any fish and game law or regulation or any violation of the terms or conditions of this permit by the holders thereof, their agents, servants, employees or those acting under their direction and control. Permits so revoked and canceled may not be renewed for a period of one year from the date of revocation.

### §120.01. Pink Shrimp Trawling.

(a) Permit Required. On and after April 1, 2001, any person using a trawl net to take, possess aboard a vessel, or land pink shrimp for commercial purposes in ocean waters north of a line drawn due west of Point Conception shall have a northern pink shrimp trawl permit or a northern pink shrimp trawl individual permit that has not been suspended or revoked. All pink shrimp taken in ocean waters north of the aforementioned line incidental to other fishing activities shall be immediately returned to the water. Pink shrimp taken south of the aforementioned line shall be subject to the provisions of Section 120, Title 14, CCR. For the purposes of this section, vessel owner includes any person who has a lease-purchase agreement for the purchase of a vessel.

#### (b) Initial Permit Issuance.

(1) A northern pink shrimp trawl individual permit may be issued to the holder of a valid 2000-01 pink shrimp trawl individual permit who landed a minimum of 5,000 pounds of pink shrimp north of Point Conception in each of three of the fishing seasons from April 1, 1994 to October 31, 1999 as documented by department landing receipts submitted in their name and commercial fishing license identification number.

(2) A northern pink shrimp trawl vessel permit may be issued to the current owner of a vessel with a valid 2000-01 pink shrimp trawl vessel permit who landed a minimum of 5,000 pounds of pink shrimp north of Point Conception in each of three of the fishing seasons from April 1, 1994 to October 31, 1999, as documented by department landing receipts.

(3) A northern pink shrimp trawl vessel permit may be issued to an individual who does not qualify for a permit in (b)(1) or (2), above, and is the current owner of a commercial fishing vessel and who has been licensed as a California commercial fisherman for at least 20 years at the time of application and has participated in the pink shrimp trawl fishery for at least one of those years in this state as documented by department landing receipts that cumulatively total 5,000 pounds of pink shrimp landed by trawl nets in their name and commercial fishing license number. Any permit issued under this provision shall be nontransferable.

(4) Initial applications for all northern pink shrimp trawl permits shall be received by the department or, if mailed, postmarked no later than May 31, 2002. Initial late applications shall be received by the department or, if mailed, postmarked not later than June 30, 2002 and shall be accompanied by a \$50 late fee. Initial late applications not received by the department or, if mailed, postmarked after June 30, 2002, will not be considered. A permit shall not be issued until the \$50 late fee is paid.

(5) No individual or corporation that qualifies for a northern pink shrimp trawl vessel permit shall be issued a northern pink shrimp trawl individual permit.

#### (c) Vessel Length Endorsement.

(1) Each northern pink shrimp trawl vessel permit shall be endorsed with the overall length at the time of initial issuance. Vessel overall length is measured between the perpendiculars at the foremost portion of the hull at the stem, excluding any extensions commonly known as bowsprits, and the aftermost portion of the hull at the sternpost, excluding any extensions thereof. One of the following forms of documentation shall be submitted as proof of the vessel's overall length.

(2) Marine Survey Report. Before any northern pink shrimp trawl vessel permit is issued or transferred to another vessel, the owner of the vessel who will receive the permit may submit a marine survey completed by a certified marine surveyor on or after April 1, 1999 that clearly shows the vessel overall length.

(3) Federal Groundfish Permit. Before any northern pink shrimp trawl vessel permit is issued or transferred to another vessel, the owner of the vessel who will receive the permit may submit their current valid Federal Groundfish Permit with its endorsed length as documentation of the vessel's overall length.

(4) When a vessel is no longer available for an overall length measurement, as determined by the department, and does not have a current valid Federal Groundfish Permit, the department may consider: a Marine Survey dated prior to April 1, 1999, U.S. Coast Guard Documentation, or Department of Motor Vehicles registration records.

#### (d) Permit Renewal.

(1) Applicants for northern pink shrimp trawl permits must have held a

valid northern pink shrimp trawl permit in the immediately preceding permit year. All applications for northern pink shrimp trawl permit renewal shall be received by the department or, if mailed, postmarked not later than April 30 each year. Late applications for northern pink shrimp trawl permit renewal shall be received by the department or, if mailed, postmarked not later than May 31 of each year and shall be accompanied by a \$50 late fee. Late applications for northern pink shrimp trawl permit renewal not received, or if mailed, postmarked after May 31 will not be considered. A permit shall not be issued until the \$50 late fee is paid.

(2) A northern pink shrimp trawl individual permit shall be upgraded to a northern pink shrimp trawl vessel permit before April 1, 2004. The vessel that the northern pink shrimp trawl vessel permit is assigned to may be not more than five feet greater in overall length than the longest vessel on which the permittee made qualifying landings. The individual permittee is subject to the terms of permit renewal in Section 120.01(d)(1). Any northern pink shrimp trawl individual permit not upgraded to a northern pink shrimp trawl vessel permit before April 1, 2003 shall be deemed forfeit to the department.

#### (e) Permit Transfers.

(1) A northern pink shrimp trawl vessel permit may be transferred to a replacement vessel owned by the permittee within two years of the permitted vessel being lost, stolen, or destroyed. The replacement vessel may be up to but not more than five feet greater in overall length than the original permitted vessel. The original length endorsement will remain on the permit.

(2) A northern pink shrimp trawl vessel permit is otherwise transferable to another owner only if the vessel qualifying for the initial permit landed 90,000 pounds of pink shrimp by trawl north of Point Conception from April 1, 1994 to October 31, 1999. An individual permit, when upgraded to a vessel permit pursuant to Section 120.01(d)(2), shall be otherwise transferable to another owner only if the fishermen qualifying for the initial permit landed 90,000 pounds of pink shrimp by trawl north of Point Conception from April 1, 1994 to October 31, 1999.

(A) The transferable permit may not be transferred more than once every twelve months.

(B) The transferable permit may be transferred any number of times to a different vessel up to five feet greater in overall length than the original length endorsement, or of equal or less overall length. The original length endorsement will remain on the permit.

(C) A transferable permit may be permanently changed to a nontransferable permit on written request of the vessel owner. The permit shall not be restored to a transferable permit under any circumstances.

(3) On the death of a transferable northern pink shrimp trawl vessel permittee an heir may apply to the department to transfer that permit to him or her. The application for transfer shall be received by the department within two years of the death of the permittee.

(4) Any northern pink shrimp trawl vessel permit may be temporarily transferred, for up to one year, to a different vessel, if the permitted vessel is seriously damaged, has suffered a major mechanical breakdown, or is lost or destroyed. The request for temporary transfer shall include documentation of the damage, breakdown, loss or destruction.

(5) Any northern pink shrimp trawl vessel may be permanently retired from the fishery for any reason, and the permit transferred to a different vessel, up to but not more than five feet greater in overall length than the original length endorsement, which is owned by the same permittee.

#### (f) Appeal.

(1) Any applicant who is denied initial issuance of a northern pink shrimp trawl vessel permit or a northern pink shrimp trawl individual permit by the department for any reason may appeal that denial to the commission in writing, describing the basis for the appeal. The appeal shall be received by the commission or, if mailed, postmarked not later than March 31, 2004.

(2) Appeals for initial permit issuance may be based on medical conditions, vessel condition, purchase of a vessel during the moratorium period which had a pink shrimp vessel permit, economic conditions in the fishery, historic participation levels in the California pink shrimp fishery, oceanographic conditions and associated low availability of shrimp in the California area of the fishermen's residence, and incapacity of the vessel to participate in the fishery.

(3) Any applicant who is denied renewal of a northern pink shrimp

trawl permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31 following the permit year in which the applicant last held a valid northern pink shrimp trawl permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.

(4) Any applicant who is denied transfer of a northern pink shrimp trawl vessel permit may appeal the denial to the department in writing not more than 90 days from the date of denial describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.

(g) Fees.

(1) The annual fee for a transferable northern pink shrimp trawl vessel permit is \$1,015.

(2) The fee to transfer a permit to a new owner is \$1,000. No northern pink shrimp trawl vessel permit shall be transferred without a completed application and payment of fees.

(3) The fee to transfer a permit to another vessel owned by the same permittee is \$200.

(4) The fee for a temporary permit transfer of up to one year is \$100.

(5) The annual fee for a nontransferable northern pink shrimp trawl vessel permit is \$507.50.

(6) The annual fee for a northern pink shrimp trawl individual permit is \$500.

(7) The fee to upgrade a northern pink shrimp trawl individual permit to a northern pink shrimp trawl vessel permit is \$200.

(h) Conditions for Continued Eligibility. Any northern pink shrimp trawl vessel or northern pink shrimp trawl individual permit not renewed on or before May 31 of each permit year shall be considered forfeit to the department.

(i) Capacity Goal.

(1) The department shall evaluate the capacity goal every three years and report to the commission, with a recommendation regarding issuance of new permits.

(2) The capacity goal for transferable permits shall be a range from 75 up to the number of permits initially issued, and for nontransferable permits a range of 0 up to the number of permits initially issued.

(j) Permit Revocation.

(1) A northern pink shrimp trawl vessel or individual permit shall be revoked if false information is provided by the permittee to obtain the permit.

## ROCK CRAB

Rock Crab Trap Permit holders are subject to the provisions of §§180, 180.2, 180.4, 180.5, Title 14, of the CCR and FGC §§9000, 9000.5, 9001, 9001.7-9008, 9011-9012.

### §125. Commercial Take of Rock Crab.

(a) Permit Required for Take Using Trap Gear.

Effective April 1, 2005, any person using traps to take, possess aboard a vessel, use as bait, or land rock crab (*Cancer antennarius*, *C. anthonyi*, or *C. productus*) for commercial purposes shall have a valid general trap permit issued pursuant to Fish and Game Code Section 9001 and either a northern or southern rock crab trap permit as described in this Section that has not been suspended or revoked.

(1) Presence of Permit Holder Aboard a Vessel. At least one rock crab trap permit holder shall be on board at all times when taking, possessing aboard a vessel, using as bait, or landing rock crab using trap gear. If a support vessel is used, a rock crab trap permit holder shall be on each vessel when taking rock crab.

(2) Crewmembers. Any licensed commercial fisherman working on a vessel utilizing commercial rock crab trap gear shall possess a valid general trap permit that has not been suspended or revoked. Crewmembers are not required to hold a rock crab trap permit.

(3) Fishermen holding lobster operator or crewmember permits is-

sued pursuant to Fish and Game Code Section 8254 and Section 122, Title 14, CCR, taking rock crab incidentally as authorized in Fish and Game Code Section 8250.5 during the lobster fishing season specified in Fish and Game Code Section 8251 and in lobster trap gear as defined in Fish and Game Code Section 9010, are exempt from the rock crab trap permit requirements of this Section.

(b) Permit Conditions.

(1) Commercial rock crab trap permits are issued conditional upon all provisions of the Fish and Game Code and regulations of the Fish and Game Commission relating to crabs and traps.

(2) Pursuant to Fish and Game Code Section 9005, every trap or string of traps deployed for purposes of commercially harvesting rock crab shall be marked with a buoy.

(3) Timed buoy release mechanisms capable of submerging a buoy attached to a trap, commonly known as "pop-ups," shall not be used on buoy lines attached to rock crab traps, and shall not be possessed by any commercial rock crab trap permittee on any vessel while taking or attempting to take rock crab.

(c) Permit Areas.

(1) The northern rock crab trap permit is required only in ocean waters between 42°00' N. lat. (the Oregon/California border) and 36°00' N. lat. (at Lopez Point, Monterey County).

(2) The southern rock crab trap permit is required only in ocean waters south of 36°00' N. lat. (at Lopez Point, Monterey County).

(d) Northern Rock Crab Trap Permit Issuance.

(1) A person is eligible to purchase a northern rock crab trap permit if the individual meets all of the following criteria:

(A) the individual must be a licensed commercial fisherman;

(B) the individual must possess a valid general trap permit, issued pursuant to Fish and Game Code Section 9001, that has not been suspended or revoked; and

(C) each year the individual must submit to the department a northern rock crab trap permit application form DFG 1375 (6/04), which is incorporated by reference herein, and the annual permit fee specified in subsection (f).

(e) Southern Rock Crab Trap Permit Issuance.

(1) Initial Permit Issuance. During the 2005-2006 permit year, any person is eligible for initial issuance of a southern rock crab trap permit if the individual meets all of the following criteria:

(A) the individual must be a licensed commercial fisherman; and

(B) the individual must possess a valid general trap permit, issued pursuant to Fish and Game Code Section 9001, that has not been suspended or revoked; and

(C) the individual must have landed a minimum of 500 pounds of rock crab utilizing trap gear between January 1, 1998 and December 31, 2003 at ports located within the southern permit area as defined in subsection (c), and as documented by fish landing receipts submitted to the department in the individual's name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046. Individuals who hold a Nearshore Fishery Trap Endorsement issued pursuant to Section 150.03, Title 14, CCR, are exempt from this eligibility requirement.

(D) Application Deadlines for Southern Rock Crab Trap Permit. A southern rock crab trap application form DFG 1324(6/04), which is incorporated by reference herein, and the annual permit fee specified in subsection (f) must be received by the department or, if mailed, must be postmarked on or before September 30, 2005. Applications for initial issuance of a southern rock crab trap permit received by the department, or, if mailed, postmarked from October 1 through October 31, 2005 will be assessed a \$50 late fee. Applications and permit fees for initial issuance of southern rock crab trap permits received, or, if mailed, postmarked after October 31, 2005 shall be returned to the applicant unissued.

(2) Southern Rock Crab Trap Permit Renewal. Southern rock crab trap permits must be renewed annually.

(A) Beginning with the 2006-2007 permit year, only persons who held a valid southern rock crab trap permit during the immediately pre-

ceding permit year are eligible to obtain a permit for the following permit year.

(B) All applications and permit fees for renewal of a southern rock crab trap permit shall be received by the department, or, if mailed, postmarked on or before April 30 of each year. Applications for renewal of a southern rock crab trap permit received by the department, or if mailed, postmarked from May 1 through May 31 will be assessed a \$50 late fee. Applications for renewal of a southern rock crab trap permit received or postmarked after May 31 shall be returned to the applicant unissued.

(f) Fees.

(1) Northern rock crab trap permit. The department shall charge an annual fee of two hundred and fifty dollars (\$250.00).

(2) Southern rock crab trap permit. The department shall charge an annual fee of two hundred and fifty dollars (\$250.00).

(g) Permit Revocation. Pursuant to Fish and Game Code Section 1054, a rock crab trap permit shall be revoked if the applicant or permittee submits false information for the purposes of obtaining or renewing a rock crab trap permit.

(h) Appeals.

(1) Southern Rock Crab Trap Permit Initial Issuance Appeals. Any applicant who is denied initial issuance of a southern rock crab trap permit for any reason by the department may appeal that denial to the commission in writing, describing the basis for the appeal. The appeal shall be received by the commission or, if mailed, postmarked on or before March 31, 2006.

(2) Southern Rock Crab Trap Renewal Appeals. Any applicant who is denied renewal of a southern rock crab trap permit for any reason may appeal that denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31 following the permit year in which the applicant last held a valid southern rock crab trap permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.

(i) Restricted Access.

A control date of January 1, 2003 is established for the purpose of considering a future restricted access southern rock crab trap fishery. Landings on or after this date may not apply toward a permit in a future restricted access program for the southern rock crab trap fishery if one is developed.

(j) Tidal Invertebrate permits issued pursuant to Section 123, Title 14, CCR, are not required for the commercial take of rock crab.

## **SALMON**

### **FGC Excerpts**

#### **§7860. Application and fee; Salmon stamps.**

(a) Except as provided in subdivision (f) or (g), no person who is 18 years of age or more and less than 70 years of age, on or before April 1 of the current license year, shall take salmon for commercial purposes or be on board a vessel on which salmon are taken for commercial purposes while salmon are being taken or transported unless that person has a commercial fishing salmon stamp issued pursuant to this section affixed to his or her commercial fishing license.

(b) Except as provided in subdivision (f) or (g), the operator of a vessel on which salmon are taken for commercial purposes shall not permit a person on board that vessel while salmon are being taken or transported unless that person was less than 18 years of age or 70 years of age or more on April 1 of the current license year or that person has a commercial fishing salmon stamp affixed to the person's commercial fishing license.

(c) Except as provided in subdivision (b) of Section 7852.3 and this subdivision, the department shall issue a commercial fishing salmon stamp upon application therefor and payment of the fee of eighty-five dollars (\$85). For any commercial salmon season preceded by a commercial salmon season in which the commercial troll salmon landings in this

state equal or exceed 3,000,000 pounds dressed weight, as determined by the department, the fee shall be increased by twelve dollars and fifty cents (\$12.50) for every 250,000 pounds over 3,000,000 pounds of dressed weight landings, except that the total fees as adjusted shall not exceed two hundred sixty dollars (\$260).

(d) A commercial fishing salmon stamp is valid during the commercial salmon season of the year in which it was issued.

(e) Notwithstanding Section 1053, upon application and payment of an additional fee equal to that prescribed in subdivision (c), the department may issue an additional commercial fishing salmon stamp for a crewmember to the owner or operator of a vessel who holds a commercial fishing salmon stamp.

(f) Notwithstanding subdivision (a), one crewmember of a vessel for which a commercial fishing salmon stamp is issued pursuant to subdivision (e) may be aboard that vessel and take salmon for commercial purposes as a crewmember on that vessel without obtaining a commercial fishing salmon stamp under the following conditions:

(1) The crewmember is designated by name and commercial fishing license number on a form furnished by the department before salmon are taken on the vessel when that crewmember is aboard.

(2) The crewmember has a valid commercial fishing license issued under Section 7850.

(3) The commercial fishing salmon stamp for the crewmember is affixed to the form prescribed in paragraph (1) on which the vessel registration number of the vessel is entered and on which the crewmember who is exempted by this subdivision is designated by the last entered name and commercial fishing license number.

(g) Persons who are exempt from the license requirements, or who are not required to be licensed, pursuant to Section 7850, are exempt from the requirements of this section.

#### **§8231. Definitions.**

The following definitions govern the construction of this article:

(a) "Agent" means the person designated in writing by the owner as the owner's representative.

(b) "Appeal" means a request for reconsideration of an action of the review board, the department, or the commission pursuant to this article.

(c) "Change of ownership" means the transfer of ownership of a permitted vessel to a new owner.

(d) "Commercial salmon vessel permit" means an annual permit issued by the department to an owner of a commercial fishing vessel for use of that vessel to take salmon for commercial purposes and shall not be considered personal property.

(e) "Fishing potential" means the capability and capacity for harvesting salmon of a particular commercial fishing vessel. "Fishing potential" includes, but is not limited to, a rating based upon factors such as size, seaworthiness, propulsion system, hold size, and hull design.

(f) "Permit" means a commercial salmon vessel permit as defined in subdivision (d).

(g) "Permitted vessel" means a commercial fishing vessel for which a permit is currently valid.

(h) "Replacement vessel" means a commercial fishing vessel for the use of which a permit is proposed to be transferred pursuant to this article.

(i) "Review board" means the commercial salmon fishing review board created pursuant to Section 8247.

(j) "Transfer" means the issuance of a permit for use of a replacement vessel.

#### **§8232. Taking or possessing salmon for commercial purposes.**

It is unlawful to take or possess salmon for commercial purposes on a vessel unless all of the following conditions are met:

(a) The vessel is registered with the department pursuant to Section 7881, and the owner of the vessel has a valid commercial salmon vessel permit for the use of that vessel.

(b) The permit for the use of the vessel is affixed to the vessel adjacent to the department registration number unless otherwise authorized by the department.

(c) The permit affixed to the vessel is visible at all times.

**§8232.5. Use of vessel for sport purposes.**

(a) Except as provided in this section, it is unlawful to take salmon for sport purposes on a permitted vessel.

(b) Subdivision (a) does not prohibit taking salmon for sport purposes under a sportfishing or a sport ocean fishing license, which is issued pursuant to Article 3 (commencing with Section 7145) of Chapter 1, on a vessel licensed as a commercial passenger fishing boat pursuant to Section 7920 and engaged in that business on any day when salmon are not being taken for commercial purposes on that vessel.

(c) Subdivision (a) does not prohibit taking salmon for sport purposes under a sportfishing or a sport ocean fishing license, which is issued pursuant to Article 3 (commencing with Section 7145) of Chapter 1, on a permitted vessel in the Klamath Management Zone, as designated by the federal Pacific Fisheries Management Council, when the commercial salmon season is closed and after 24 hours after the time when salmon taken during the commercial salmon season are required to be landed.

(d) The use of a vessel pursuant to subdivision (c) shall be considered as being engaged or employed exclusively in the taking and possession of fish or other living resource of the sea for commercial purposes for purposes of subdivision (a) of Section 227 of the Revenue and Taxation Code.

**§8233. Period of validity for permit.**

Except as otherwise provided in this article, a permit shall be renewed prior to expiration. Each permit issued by the department shall display the expiration date on the face of the permit.

**§8233.3. Issuance of permit renewal.**

Except as otherwise provided in this article, the department shall issue a permit, upon application and payment of the renewal fees pursuant to Section 8235, that is valid for the subsequent permit year, to the owner of a permitted vessel which is registered with the department pursuant to Section 7881.

**§8233.4. Issue of permit for replacement vessel.**

Except as otherwise provided in this article, the department shall issue a permit, upon payment of the transfer fees pursuant to subdivision (a) of Section 8239 and surrender to the department of the permit for the use of the permitted vessel, to the owner of a replacement vessel that is registered with the department pursuant to Section 7881, if the transfer has been approved pursuant to Section 8241.

**§8233.5. Change in designation of permitholder.**

Except as otherwise provided in this article, the department shall change the designation of the holder of a permit, and with it shall go all rights, privileges, and obligations of a permit holder, including rights of renewal, upon receipt of a notice of change of ownership to a new owner of a permitted vessel upon change of ownership in the permitted vessel. A permit changed pursuant to this section is valid for the permit year during which it is issued.

**§8233.8. Issuance of permit for new entry vessel.**

Except as otherwise provided in this article, the department shall issue a permit to the owner of a commercial salmon fishing vessel that is registered with the department pursuant to Section 7881 for the new entry of that vessel into the commercial salmon fishery if that owner is authorized to be issued a permit for the use of that new entry vessel pursuant to subdivision (b) of Section 8245.

**§8233.9. Applicability of provision on eligibility for participation in limited entry fishery.**

Section 8101 does not apply to this article.

**§8234. Commercial fishing salmon stamp.**

(a) The department shall not issue a permit under this article unless one of the following first occurs:

(1) The applicant presents to the department a commercial fishing salmon stamp issued to the owner or an agent of the owner. No commer-

cial fishing salmon stamp shall be presented or accepted by the department to authorize issuance of a permit under this section for more than one vessel.

(2) The applicant obtains a commercial fishing salmon stamp and pays the fees for the stamp.

(3) On or before April 1 of the current license year, the owner is 70 years of age.

(b) The first commercial fishing salmon stamp issued to an owner, or that owner's agent, shall be affixed to the commercial fishing license of that owner or agent. Any additional commercial fishing salmon stamps issued to the owner or the owner's agent pursuant to paragraph (1) of subdivision (a) for purposes of obtaining permits for use of additional commercial salmon fishing vessels shall be affixed to each additional vessel's registration issued pursuant to Section 7881.

**§8235. Application for permit renewal.**

(a) The owner of a permitted vessel, or that owner's agent, may apply for renewal of the permit annually on or before March 31, upon payment of the fees established under subdivision (b), without penalty. Upon receipt of the application and fees, the department shall issue the permit for use of the permitted vessel in the subsequent permit year only to the owner of the permitted vessel.

(b) The department shall fix the annual fee for the renewal of the permit in an amount it determines to be necessary to pay the reasonable costs of implementing and administering this article.

(c) If an owner to whom a permit has been issued, or that owner's agent, applies for renewal of the permit, and the application for the renewal is received in an office of the department, or is postmarked if mailed, after March 31 but on or before April 30, the department shall accept the application and, upon payment of an additional late fee of one hundred dollars (\$100), the department shall issue the permit for use of the permitted vessel in the subsequent permit year.

(d) The department shall suspend any late fees otherwise due under subdivision (c) and shall issue a permit for use of the permitted vessel in the subsequent permit year if the department is unable to accept applications for renewal of permits by March 1.

(e) Except as provided in subdivision (c), the department shall not renew a permit for which the application for renewal is not received, or, if mailed, is received or postmarked after expiration of the permit.

**§8236. Notice of renewal to owners.**

(a) The department shall send a written notice of renewal and a permit renewal application to the owner of each currently permitted vessel at the most recent address of that owner in the records of the department. The notice shall be sent by first-class mail before March 1. The department shall mail a copy of the notice for renewal to all associations and groups known to the department to be representing commercial salmon fishermen. The department shall also provide blank permit renewal applications at appropriate offices of the department.

(b) The notice shall include all of the following:

(1) Instructions on how to apply for renewal of a permit.

(2) Information on the provisions of subdivisions (c) and (e) of Section 8235.

(c) Failure to receive the notice under this section does not exempt or excuse the owner from the requirement of annual renewal of the permit on or before the permit expiration date.

**§8237. Transfer of permit.**

(a) The department shall change the designation of the holder of a permit to the new owner of a permitted vessel upon change of ownership of the permitted vessel, whether the change of ownership is by contract, by operation of law, or otherwise.

(b) The permit shall not be transferred to any other vessel, except by the issuance of a permit for use of the replacement vessel pursuant subdivision (c) and Sections 8239 to 8241, inclusive.

(c) The owner of the permitted vessel may seek to retire the permitted vessel from the commercial salmon fishery and apply for transfer of the

permit, to be issued pursuant to Section 8241, for use of a replacement vessel.

**§8238. Establishment of vessel classification system.**

On or before January 1, 1991, the department, in consultation with the review board, shall establish and adopt, in the manner prescribed in Section 8238.3, a vessel classification system to determine the fishing potential of replacement vessels for applications for transferred permits to be issued pursuant to Section 8241, including consideration of how the vessel from which the permit is sought to be transferred was used, the vessel's highest and best use by a prudent operator, and the fishing potential of prospective vessels for applications for new, original permits.

**§8238.I. Use of vessel classification system.**

The vessel classification system shall be used by the department in consultation with the review board for issuance of new original vessel permits pursuant to Section 8243 and as a guideline for the review board in making its recommendations to the department on vessel permit transfers.

**§8239. Transfer of permit to replacement vessel.**

A transfer may be approved and a permit issued for use of a replacement vessel pursuant to Section 8241 under all of the following conditions:

(a) The vessel owner submits a written request for the transfer to the department on a form provided by the department and pays a nonrefundable transfer fee of two hundred dollars (\$200).

(b) The permit for the permitted vessel is current, and the owner of the permitted vessel makes assurances in the application that any renewal of the permit which becomes due during the application processing period will be made.

(c) The owner of the permitted vessel submits evidence with the application sufficient to establish that he or she is the owner of the permitted vessel at the time of the application for the transfer.

(d) The vessel owner submits evidence with the application sufficient in the judgment of the review board and the department to establish that the replacement vessel has the same fishing potential as, or less fishing potential than, the permitted vessel.

(e) Under penalty of perjury, the vessel owner signs the application for transfer and certifies that the included information is true to the best of his or her information and belief.

(f) The same transfer has not been requested within the previous 12 months or the same transfer has not previously been denied and that denial is final, unless the application or supporting information are different than that contained in the previous application, as determined by the department and after consultation with the review board.

(g) The permittee has 50 percent or greater ownership interest in the permitted vessel and in the replacement vessel. For purposes of this subdivision and subdivision (h) "permittee" means an individual designated as the owner of the permitted vessel.

(h) Except as provided in Section 8239.1 or paragraph (5) of subdivision (a) of Section 8246.7, the permittee has maintained a 50 percent or greater ownership interest in the permitted vessel for not less than 18 months prior to the date of the transfer and the permit for use of the permitted vessel has been maintained for that vessel and has not been previously transferred less than 18 months prior the date of the transfer.

(i) The permittee has written authority from the legal owner, if other than the permittee or mortgager, if any, to transfer the vessel permit from the permitted vessel.

**§8239.I. Transfer of permit where vessel is lost, stolen, or destroyed.**

(a) Unless otherwise prohibited, the department shall accept a transfer application within one year after the date that a permitted vessel was lost, stolen, or destroyed, notwithstanding any inability to physically examine the permitted vessel to determine its salmon fishing potential. Only the permittee at the time of the loss, theft, or destruction of the vessel may apply for the transfer of the vessel permit. Proof that a vessel is lost, stolen, or destroyed shall be in the form of a copy of the report filed with the

United States Coast Guard or any other law enforcement agency or fire department investigating the loss.

(b) (1) The owner, or the owner's agent, may request an extension of the time to complete a transfer under subdivision (a) if the application for extension is submitted before the end of the time to submit an application under subdivision (a), or before the end of any previous extensions granted under this subdivision, whichever date is later.

(2) The department, after consultation with the review board and for good-cause shown, including, but not limited to, inability to find a replacement vessel or pending litigation, may grant an extension of the time to complete a transfer under subdivision (a) for a period of six months. The department may grant further extensions under this subdivision, not to exceed a total time period of five years after the date the permitted vessel was lost, stolen, or destroyed if the permit fees are paid annually as required in paragraph (2) of subdivision (b) of Section 8239 and subdivision (c) of Section 8240.

**§8239.2. Establishment of administrative procedures.**

The department, in cooperation with the review board, shall establish and implement administrative procedures for the administration of this article.

**§8239.6. Period of validity of permit for replacement vessel.**

A permit issued for the use of a replacement vessel under Section 8241 is valid for the balance of the permit year for which the permit for the use of the permitted vessel was originally issued or last renewed, and the permit issued under this section authorizes the use of the replacement vessel only for that period.

**§8239.9. Determination of fishing potential of vessel prior to transfer application.**

Notwithstanding Section 8239, 8239.1, or 8239.2, any person may request the review board to determine the fishing potential of any permitted vessel or any replacement vessel before a transfer application for a permit for use of a replacement vessel is submitted the department. The person making a request under this subdivision is not required to be the owner of either vessel. A determination under this subdivision is not binding on the review board or the department and is only advisory.

**§8240. Grounds for refusal to issue permit for replacement vessel.**

(a) The department shall not issue a permit for use of a replacement vessel if the permitted vessel was reported as lost, stolen, or destroyed by fraudulent means or for fraudulent purposes.

(b) The department shall not issue a permit for use of a replacement vessel if the application contains or is accompanied with fraudulent or willfully misleading information.

(c) The department shall not issue a permit for use of a replacement vessel or to a new owner of a permitted vessel of the permit for the permitted vessel expires and is not renewed. Except as provided in Section 8235, an owner of a permitted vessel shall renew the permit before the expiration date even if that owner has a transfer application pending.

(d) The department may refuse to issue a permit for use of a replacement vessel or to issue a permit to a new owner of a permitted vessel on any grounds for which a permit may be suspended or revoked.

**§8241. Criteria for issuance of permit for replacement vessel.**

The department shall issue the permit for use of a replacement vessel if it determines, after consultation with the review board, the following:

(a) The replacement vessel has the same fishing potential as, or less fishing potential than, the permitted vessel. The review board and the department shall consider the type of fishery the vessel was previously used in and the vessel's highest and best use by a prudent operator, and the review board shall make written findings on those facts.

(b) The replacement vessel's fishing potential will not substantially increase fishing capacity over that which resulted from the operation of the permitted vessel.

- (c) The applicant owns the replacement vessel.
- (d) The conditions in this article are satisfied.

**§8242. Permit to gain entry into fishery.**

A person seeking to gain entry into the commercial salmon fishery may obtain a permit under either of the following conditions:

(a) By legally obtaining the ownership of a permitted vessel and notifying the department of the change of ownership of the permitted vessel.

(b) By applying to obtain a new, original permit issued by the department pursuant to Sections 8244 and 8245.

**§8243. Issuance of new, original permits.**

(a) If the department determines that the number of permitted vessels is less than 2,500, the department shall determine, after consultation with the review board, the number and vessel classification for which any new, original permits may be issued to bring the total number of permitted vessels to no more than 2,500.

(b) New original permits to be issued shall be authorized by vessel classifications established under Section 8238.

**§8244. Application for new, original permit.**

(a) An applicant may apply for a new, original permit as either an individual, a joint venture, or a corporation. The applicant may submit only one application annually. The application shall be made on a form provided by the department.

(b) An applicant for a new, original permit under this section shall submit a completed application as directed by the department. The completed application, and the application fees prescribed in subdivision (c), shall be delivered or postmarked on or before February 1, in order to be considered for permits for the subsequent permit year.

(c) The applicant shall submit with the application a nonrefundable application fee determined by the department in an amount sufficient to pay the costs of administering the issuance of new, original permits by the department, which shall be not less than thirty-five dollars (\$35).

(d) The department, after consultation with the review board, shall determine the fishing potential of the vessel for use of which the new, original permit is to be issued and otherwise determine if the applicant is eligible to be issued a permit under this article.

**§8245. Drawing for new, original permits; Fees; Requirements.**

(a) The department shall conduct a drawing from the applicants determined to be eligible for new, original permits pursuant to Section 8244 on the first Friday in March of each year that new, original permits are authorized to be issued pursuant to Section 8243.

(b) (1) The department shall issue a permit to each of those applicants who are drawn upon payment of the fees prescribed in paragraph (2) for the permit and, except as provided in subdivision (d), submittal of sufficient information to establish that the applicant is the owner of a vessel within the vessel classification designated in the application.

(2) The amount of the fees for a permit issued under this section are the same as the amount of the fees for renewal of a permit for the subsequent license year beginning on April 1 which are established pursuant to subdivision (b) of Section 8235. A successful applicant shall pay the fees for the permit on or before March 31. The department shall deposit the fees the fund pursuant to Section 13001.

(c) Except as provided in subdivision (d), a successful applicant shall submit proof of ownership of the vessel to be used under the permit within 90 days of the drawing.

(d)(1) A successful applicant may request one extension of no more than 90 days to obtain a vessel as designated in the application. The department, after consultation with the review board, may grant that extension.

(2) If any successful applicant does not establish that he or she is the owner of a vessel as designated in the application and affix the new permit on that vessel or on another vessel with the same or less fishing potential,

as determined by the department after consultation with the board, within 90 days or by the end of a 90 day extension granted by the department, the new permit is null and void.

(3) The department or the review board is not liable for any risk of failure by the applicant obtain a vessel which is designated in an application or to complete the process for determination of the fishing potential of another vessel, or for failure by the applicant to obtain that other vessel, in the time prescribed in this section.

**§8245.5. Review of new entry provisions.**

The review board shall review the effectiveness of new entry provisions every three years beginning three years following the first permit drawing and make recommendations to the department for any changes it finds to be needed in the new entry system.

**§8246. Suspension or revocation of fishing privilege; Civil damages.**

(a) At any time after notice of an order suspending or revoking of a person's commercial salmon fishing privilege is issued by the commission, and before the order of suspension or revocation is final, the commission may, with the agreement of the person subject to the action, compromise or dismiss the action to suspend or revoke the commercial salmon fishing privilege in the best interests of the state, or the commission may compromise or dismiss the action with the agreement of the person subject to the action on terms and conditions, which may include, but are not limited to, the payment of civil damages, the reduction of a revocation to a suspension for a specified period of time, or any other terms and conditions.

(b) The commission, after notice and opportunity for hearing and consultation with the review board, may suspend or revoke the commercial fishing privilege, authorized under a license issued for the purposes of Section 7850 or 7852.3, for any violation of a term or condition of an agreement to compromise or dismiss a separate suspension or revocation action which was made pursuant to subdivision (a).

(c) If the commission orders a suspension or revocation of a person's commercial salmon fishing privilege, any permit issued pursuant to this article shall be renewed when the next renewal is due or the permit shall expire as provided in Section 8233.

(d) Subdivision (b) does not apply if an action is brought to recover civil damages under Section 2014 from the person subject to action under this section.

**§8246.2. Amount of civil damages.**

(a) The commission, in consultation with the department and the review board, shall adopt regulations for the determination of civil damages provided for in subdivision (b) of Section 8246 which give due consideration to the appropriateness of the civil damages with respect to all of the following factors:

- (1) The gravity of the violation.
- (2) The good faith of the convicted licensee.
- (3) The history of previous violations.
- (4) The damage to the fishery.
- (5) The cost of restoration of the fishery.

(b) Civil damages imposed under subdivision (b) of Section 8246 shall be due and payable on or before a date which is 30 days after the compromise is entered into.

**§8246.4. Revocation of permit obtained by fraud.**

The commission, after notice and opportunity for hearing and consultation with the review board, shall revoke a commercial salmon vessel permit issued pursuant to this article if the vessel permit was obtained by fraudulent means.

**§8246.6. Appeals of adverse orders regarding permits.**

A person whose commercial salmon fishing vessel permit is revoked by the commission or who has been denied a permit transfer may appeal the revocation or denial to the commission by submitting the appeal in writing to the commission within 60 days of the decision.

**§8246.7. Reversal of adverse order regarding permit.**

(a) The commission shall reverse an order of revocation, order the permit renewed, or order the approval of a permit transfer only if it finds one of the following grounds:

(1) The permittee failed to submit an application and pay the fees for renewal on or before April 30 pursuant Section 8235 and the failure to renew a permit until after the expiration date was due to death, physical illness, mental incapacity, or being called to active military duty, and the person was not reasonably able to have an agent renew the permit.

(2) A lienholder of a permitted vessel, if the vessel is the property of the lienholder as a result of foreclosure, surrender, or litigation, can show loss due the nonrenewal of a permit by the permittee, and the nonrenewal occurred without the knowledge of the lienholder.

(3) If, in the case of permit revocation because of fraud, evidence is provided to the commission disputing the charges of fraud. If the commission finds there was no fraud after consideration of all of the evidence, the commission may order the revocation annulled, and, if the permit expiration date has passed during the pendency of the hearing on the appeal, the commission may order the department to renew the permit upon payment of the fees.

(4) The denial of the permit transfer was arbitrary or capricious.

(5) The denial of the permit transfer was pursuant to subdivision (g) or (h) of Section 8239 and the applicant can show that the 18-month requirement cannot be met due to death, physical illness, mental incapacity, or being called to active military duty.

(b) Each appeal shall be heard and considered separately on its own merits.

**§8246.8. Authority to make and enforce regulations.**

The commission and the department may make and enforce regulations that may be necessary or convenient for carrying out any power, authority, or jurisdiction delegated to it under this article.

**§8247. Establishment of review board.**

There is in the department a commercial salmon fishing review board, which consists of five voting members appointed by the director. The director or a designee of the director shall attend meetings of the review board as a nonvoting member. The director may remove a member of the review board for cause.

**§8247.1. Membership of board.**

(a) Three of the voting members of the review board shall be owners of permitted vessels appointed by the director from lists submitted by associations or groups representing commercial salmon fishing vessel owners.

(b) Two of the voting members of the review board shall be owners of permitted vessels appointed by the director from lists submitted by individual commercial salmon fishing vessel owners.

(c) Any voting member of the review board may appoint an alternate member to represent him or her at any meeting of the review board. The director may, within 60 days of the appointment, refuse an alternate member. The alternate shall serve at the pleasure of the member who appointed him or her and shall have all the powers and duties of a member of the commercial salmon fishing review board, except that the alternate shall only participate and vote in meetings in the absence of the member who appointed him or her.

**§8247.2. Terms of appointment of board.**

The terms of the members of the review board shall be for staggered four year terms. Necessary and proper expenses shall be paid to review board members. Each member, or any alternate member participating on behalf of a regular member in that member's absence, shall receive one hundred dollars (\$100) per day for each day of attendance and participation in meetings of the review board.

**§8247.4. Function of board; Quorum.**

The review board shall function as an advisory body to the department regarding implementation of the provisions of this article. The review board shall act by a majority vote of the members present and voting. The review board shall not act unless there is a quorum of the voting members, including alternate members in the absence of their appointing members, and the director or his or her designee present.

**§8247.5. Membership of board exempt from Government Code prohibition.**

(a) The Legislature declares that individuals appointed as members of the review board shall be chosen from the commercial salmon fishing industry in order to represent and further the interest of the industry and commercial salmon fishing vessel owners, and this representation serves the general public interest.

(b) Each member of the review board is exempt from Section 87100 of the Government Code, unless the result of his or her actions taken as board members has a material financial effect on him or her distinguishable from its effect on other members of the commercial salmon fishing industry generally.

**§8247.6. Impartiality of board members.**

Members and alternate members of the review board shall act in the best interest of the state, the department, and the commercial salmon fishing industry. As members of the review board, no member or alternate member shall take any action, because of his or her position, that results in a direct material effect on any of them, distinguishable from its effect on other members of the commercial salmon fishing industry.

**§8247.7. Standards and criteria for activities of review board.**

The director may adopt standards and criteria by regulation that shall be applied by the review board in carrying out its activities under this article.

**§8247.8. Actions by board.**

The review board shall do all of the following:

(a) Consider and make recommendations to the department on requests for permit transfers.

(b) Recommend to the department, the number and classification of new vessel permits to be issued annually, if any, pursuant to Section 8243.

(c) Consult with and advise the commission as required by Section 8246, 8246.2 and 8246.4.

(d) Consult with the department and advise on the establishment of the vessel classification system pursuant to Section 8238.

**§8248. Provisions of article are severable.**

If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

**SARDINE**

**FGC Excerpts**

**§8150.5. Taking for bait purposes; Limits; Records; Notice.**

(a) Sardines may not be taken or possessed on any boat, barge, or vessel except pursuant to Section 8150.7.

(b) This section does not prohibit the possession or use of sardines imported into this state under a bill of lading identifying the country of origin.

(c) Imported sardines may be used for dead bait under regulations adopted by the commission.

**§8154. Possession for unauthorized purpose.**

No person shall receive, possess, or sell sardines for any purpose except for that purpose specified on the fish receipt completed at the time of landing of those sardines pursuant to Section 8043.

**§8870. Authorized use; Restrictions.**

Dip nets may be used subject to the following restrictions:

- (a) In districts 1, 11/2, 2, 3, and 4, dip nets may not be baited, and may not measure more than six feet in greatest breadth.
- (b) In District 19, hand-held dip nets 30 feet or less in greatest breadth may be used. In that district dip nets may not be used within 750 feet of any pier, wharf, jetty, or breakwater, except to take anchovies, squids, and sardines for bait, and to take smelt.
- (c) In District 20, hand-held dip nets 30 feet or less in greatest breadth may be used.

**SEA CUCUMBER**

Sea cucumber permit holders are also subject to the provisions of §190, Title 14, of the CCR.

**FGC Excerpts**

**§8405. Permit requirements.**

- (a) Sea cucumbers shall not be taken, possessed aboard a boat, or landed by a person for commercial purposes except under a valid sea cucumber permit issued to that person, which has not been suspended or revoked.
- (b) When taking sea cucumbers by diving, every diver shall have a sea cucumber diving permit issued to that person, which has not been suspended or revoked. When taken by means other than diving, at least one person aboard the boat shall have a valid sea cucumber trawl permit issued to that person, which has not been suspended or revoked.

**§8405.1. Applicant Requirements; Fee; Renewal; Denial only effective until April 1, 2010.**

- (a) Applicants for a sea cucumber permit shall specify by gear type, either trawl or dive, the method in which the applicant intends to take sea cucumbers. The gear type of a sea cucumber permit, either trawl or dive, shall not be transferable.
- (b) The fee for a sea cucumber permit shall be two hundred fifty dollars (\$250).
- (c) Each permittee shall complete and submit an accurate record of all sea cucumber fishing activities on forms provided by the department.
- (d) In order to renew a sea cucumber permit for any permit year, an applicant shall have been issued a sea cucumber permit in the immediately preceding permit year. Applications for renewal of a sea cucumber permit shall be received by the department or, if mailed, postmarked, by April 30 of the permit year.

**§8405.2. Transfer of permit.**

- (a) A sea cucumber permit may be transferred by the permittee if the permittee has previously held a valid sea cucumber permit for any four permit years and landed at least 100 pounds of sea cucumbers in each of those permit years, as documented by landing receipts with the name of the permittee shown on the receipts.
- (b) A sea cucumber permit may be transferred only to a person who has a valid commercial fishing license issued pursuant to Section 7852, that has not been suspended or revoked. A sea cucumber permit shall not be transferred to any person who has had a sea cucumber permit suspended or revoked while the suspension or revocation is in effect.
- (c) An application for transfer shall be submitted to the department, with such reasonable proof as the department may require to establish the qualifications of the permitholder and the person the permit is to be transferred to, accompanied by payment to the department of a nonrefundable transfer fee of two hundred dollars (\$200). The transfer

shall take effect on the date notice of approval of the application is given to the transferee by the department.

(d) A sea cucumber trawl permit may be transferred to any qualified person as provided in subdivisions (b) and (c) to take sea cucumbers by diving or by use of trawl nets. A sea cucumber dive permit may be transferred to any qualified person as provided in subdivisions (b) and (c) only to take sea cucumbers by diving. The transferee shall specify the gear type, either trawl or dive, that the transferee intends to use to take sea cucumbers. The gear type of the sea cucumber permit, either trawl or dive, shall not be transferable.

**§8405.3. Protection of sea cucumbers; Number of permits; Revocation of permit; Costs of enforcement.**

- (a) The commission, upon recommendation of the department or upon its own motion and in consultation with the sea cucumber fishing industry, may adopt regulations, including provisions governing seasons, gear restrictions, hours of operation, and any other measures that it determines may reasonably be necessary to protect the sea cucumber resource and to assure a sustainable sea cucumber fishery or to enhance enforcement activities.
- (b) The number of sea cucumber permits issued for the April 1, 1997, to March 31, 1998, inclusive, permit year shall constitute the maximum number of permits available for all subsequent permit years for the sea cucumber fishery. The department may establish by regulation a method, if necessary, to reissue any sea cucumber permit not renewed or transferred. The permit type of a sea cucumber permit, either trawl or dive, that is reissued shall not be transferable.
- (c) The commission may permanently revoke the sea cucumber permit of any person convicted of the unlawful taking of any California halibut while operating pursuant to a sea cucumber permit. The commission may revoke the sea cucumber permit of any person convicted of any other violation of this code or regulation adopted pursuant thereto while operating pursuant to a sea cucumber permit. Any revocation of a permit pursuant to this subdivision shall be in addition to any action the department may take pursuant to Section 12000.

(d) Subsequent to the 1997-98 permit year, the department, using existing funds, may determine the actual costs to the department of enforcing this article. The commission, upon recommendation of the department, may adjust the fee for the issuance or transfer of a permit to an amount not to exceed three hundred fifty dollars (\$350), to reflect the actual cost of enforcing this article.

**§8405.4.**

This article shall become inoperative on April 1, 2010, and as of January 1, 2001, is repealed, unless a later enacted statute that is enacted before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

**SEA URCHIN**

Sea urchin permit holders are also subject to the provisions of §§123 and 190, Title 14, of the CCR.

**Title 14 Excerpts**

**§120.7. Taking of Sea Urchins for Commercial Purposes.**

- (a) Permit Required.
  - (1) Any person taking or assisting in the taking of sea urchins for commercial purposes shall have obtained a valid sea urchin permit and shall be in possession of said permit when engaged in such activities. A sea urchin diving permit is not required to operate or assist in operating a vessel used to take sea urchins, however, no person without a valid sea urchin diving permit shall engage in diving from a vessel from which sea urchins are being taken or possessed for commercial purposes, unless authorized by the department's marine region regional manager or his or her designee for the purposes of sea urchin management or research.

(2) To provide an economic incentive for cooperative sea urchin management and research activity, and notwithstanding any other portion of this section, the department may authorize the holder of a valid sea urchin diving permit to harvest (take, possess, land and/or sell) red sea urchins during a closed season or in a closed area, subject to such restrictions regarding date(s), location(s), time(s), size, poundage or other matters as specified by the department. Any data collected during such harvest activity shall be made available to the department. The form of this authorization shall be a letter from the department's marine region regional manager or his or her designee issued to the permittee and containing all conditions of use.

(b) Classes of Permits.

(1) Sea Urchin Diving Permit. Sea urchin diving permits will be issued to licensed commercial fishermen 16 years of age or older who have qualified for permits pursuant to subsection (c).

(2) Sea Urchin Crewmember Permit. Sea urchin crewmember permits will be issued to licensed commercial fishermen 16 years of age or older who do not qualify for sea urchin diving permits.

(c) Prior Permittees:

(1) Applicants for sea urchin diving permits must have held a valid, unrevoked sea urchin diving permit in the immediately preceding permit year (April 1-March 31).

(2) Applications for renewal of sea urchin diving permits shall be received by the department or, if mailed, postmarked no later than June 30 of each permit year. Each application must be accompanied by evidence that the qualification requirements specified in this subsection have been met. Applications received by the department or, if mailed, postmarked after June 30 and before August 1 will be assessed a \$50 late fee. Applications received by the department or, if mailed, postmarked after July 31 will not be considered.

(d) Number of Permits.

(1) All qualified prior sea urchin diving permittees shall be eligible to receive diving permits regardless of the number issued.

(2) If the number of diving permits issued to prior permittees is more than 300, the total number of new sea urchin diving permits available for issuance shall be one-tenth the difference between the total number of sea urchin diving permits issued prior to August 1 of the current permit year and the total number of sea urchin permits issued during the immediately preceding permit year. If the number of diving permits issued to prior permittees is less than 300, the number of new sea urchin diving permits to be issued shall be the difference between the number of diving permits issued to prior permittees and 300. If the number of permits issued to prior permittees is 300, no new sea urchin diving permits shall be available.

(e) New Permittees:

(1) Applications for the issuance of any new sea urchin diving permits that may become available each year shall be received by the department or, if mailed, postmarked no later than June 30. Applications shall be submitted to the department's License and Revenue Branch, 3211 S Street, Sacramento, CA 95816. If any new sea urchin diving permits are available for issuance, as provided in subsection (d)(2), they shall be issued to licensed commercial fishermen who held, for each of the two immediately preceding permit years, a valid sea urchin crewmember permit.

(2) If there are more applicants for sea urchin diving permits than there are permits available, a drawing will be held to determine which applicants will be eligible to purchase permits. Any person who submits more than one application for a new sea urchin diving permit in any one permit year will be excluded from the drawing. Each applicant who meets the criteria in subsection (e)(1) shall be entered into the drawing once. In addition, each applicant shall be entered into the drawing one more time for each additional year, above the minimum required two years, that the applicant possessed a valid sea urchin crewmember permit. No applicant shall be entered more than five times for each drawing. The drawing will be held on the third Wednesday in August each year. Permits will be issued to successful applicants in the order drawn. Payment of the fee for the sea urchin diving permit must be received at the department's License and Revenue Branch, 3211 S Street, Sacramento,

CA 95816 on or before September 25.

(f) Fee. The fee for sea urchin crewmember permits shall be the amount authorized by Section 699 of these regulations.

(g) Appeal. Any applicant who is denied a sea urchin diving permit for any reason may appeal the denial to the department in writing, describing the basis for the appeal. The appeal must be received by the department not later than March 31 following the permit year in which the appellant last held a valid sea urchin diving permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.

(h) Vessel Identification. When sea urchins are taken under these regulations, the vessel's commercial registration number shall be displayed on both sides of the boat. The number shall be black, at least 10 inches high, and on a white background. All permittees aboard the boat shall be mutually responsible for the proper display of the vessel's commercial registration number.

(i) Conditions of the Permit:

(1) No person shall take or possess lobsters or abalone aboard any boat used to take sea urchins under these regulations on any day that sea urchins have been taken or are to be taken.

(2) Hydraulic lifts and air lifts shall be used only in such a manner that no rocks or other mineral matter, aquatic plants, fish or other aquatic life except sea urchins, shall be removed from the bottom or otherwise disturbed.

(j) Revocation of Permits. Any permit may be suspended, revoked, or canceled by the commission upon breach or violation of any fish and game regulation pertaining to the take of sea urchins or abalone; or violation of the terms or conditions of the permit by the holders thereof, their agents, servants, employees or those acting under their direction and control.

(k) Exemption from Tidal Invertebrate Permit. A sea urchin diver or sea urchin crewmember operating under the provisions of this section is not required to possess a Tidal Invertebrate Permit, but is subject to the provisions of section 123, Title 14, CCR.

(l) Fishing Season.

(1) From November 1 through March 31 the open season for red sea urchins is seven days per week.

(2) In April, May, September and October the open season for red sea urchins is Monday, Tuesday, Wednesday and Thursday.

(3) In June and August the open season for red sea urchins is Monday, Tuesday, and Wednesday.

(4) In July the season for red sea urchins is Monday and Tuesday.

(5) During any closed period, no red sea urchins may be possessed on any commercially registered vessel, except that any commercially registered vessel may transport red sea urchins after any closure goes into effect, provided that the vessel is in port no later than 0800 hours on the first day of the closed period.

(m) Logbooks. Any person who operates a vessel used for the commercial harvest of sea urchins shall prepare a daily record of the vessel's sea urchin fishing activities on a form (DFG-120.7 (5/99)), incorporated herein by reference, provided by the department before the sea urchins are landed. The completed daily records shall be sent to the Fort Bragg office of the Department of Fish and Game for fishing activities north of the Monterey-San Luis Obispo county line, and to the Los Alamitos, office for fishing activities south of the Monterey-San Luis Obispo county line on or before the tenth day of each month following the month to which the records pertain.

(n) Closed Areas.

(1) Sea urchins shall not be taken for commercial purposes in state marine reserves or state marine parks. Specific regulations in state marine conservation areas may prohibit the commercial take of sea urchins as per subsection 632(b).

(2) The Gerstle Cove area in Salt Point State Marine Conservation Area (Sonoma County) is closed to all commercial fishing for sea urchins. This area is delimited as all the ocean waters east of a line extending 180° true from the southernmost point of Salt Point (38° 33.92' N. lat.